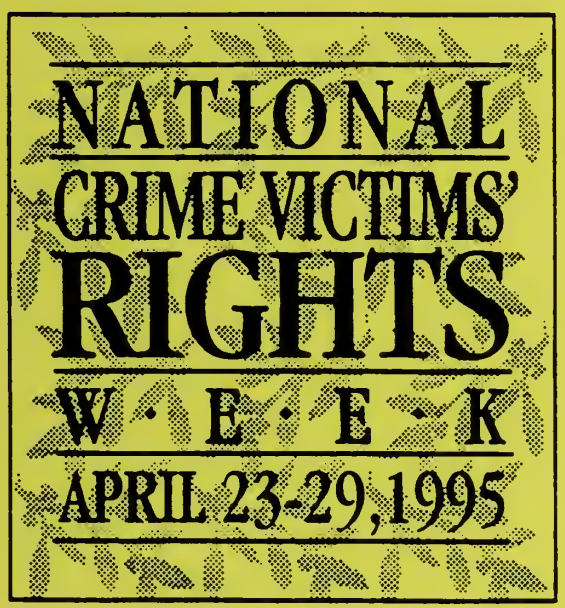
Massachusetts Annual Victim Rights Week Conference

April 25, 1995
8:00AM - 4:00PM
State House, Boston



SPONSORS:
Massachusetts Victim and Witness Assistance Board
Masschusetts Office for Victim Assistance
Attorney General Scott Harshbarger

MOVA/VWAB
100 Cambridge Street, Room 1104
Boston, MA 02202
(617) 727-5200
FAX: (617) 727-6552

Massachusetts Annual Victim Rights Conference - 1995

SPONSORS

Massachusetts Victim and Witness Assistance Board
Attorney General Scott Harshbarger, Chairman
Gerard Downing, District Attorney for Berkshire County
Mary Ellen Doyle, Victim/Citizen Member
Deborah Hall Grant, Victim/Citizen Member
Thomas Reilly, District Attorney for Middlesex County

Massachusetts Office for Victim Assistance
Heidi Urich, Executive Director
Paula Almeida, Office Administrator
David Del Rossi, Finance Director
Marilee Kenney Hunt, Domestic Violence Project Coordinator
Alyssa Kazin, Victim Program Specialist
Shelagh Lafferty, Policy Analyst
Laurie Salame, Domestic Violence Specialist
Cheryl Watson, Victim Advocate

Office of the Attorney General
Diane Juliar, Chief, Family and Community Crimes Bureau
Judy Beals, Director, Victim Compensation and Assistance Division

CO-SPONSORS

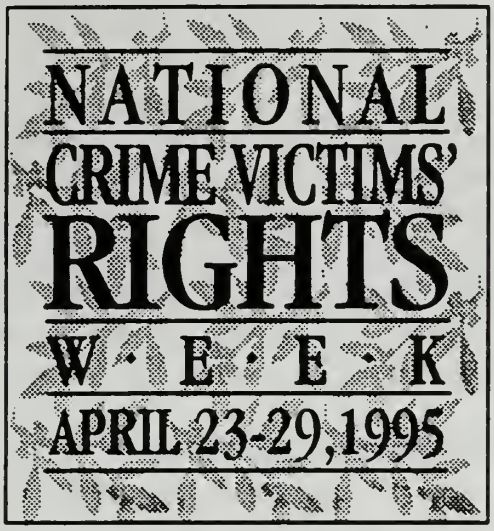
Office of Governor William Weld
Citizens for Safety
Coalition of Battered Women's Service Groups
Coalition of Rape Crisis Service Centers
Joey Fournier Victim Services
League of Victim Equality
Mass. Citizens to Prevent Handgun Violence
Mass. District Attorneys Association
Mass. Victim Assistance Association
Mothers Against Drunk Driving
Parents of Murdered Children
People of Color Against Homicide
Survivor Connections
The Boston Coalition
Violence Prevention Project, City of Boston

Resource Book: Contents

NOTE: The following materials are organized by workshop and content:

MASSACHUSETTS VICTIM RIGHTS CONFERENCE - 1995

State House, Boston
Tuesday, April 25, 1995



Conference Program

8:00 - 9:00 **Registration, Exhibits and Refreshments** - Doric Hall

9:00 - 11:00 **Plenary Session** - Gardner Auditorium

Welcome: Heidi Urich, Executive Director
Massachusetts Office for Victim Assistance

Welcoming Address: Attorney General Scott Harshbarger, Chairman
Victim and Witness Assistance Board

Awards Presentation:
Senator of the Year: Cheryl A. Jacques
Representative of the Year: Joseph B. McIntyre
Public Policy: SCORE Program
Media: Peter Gelzinis, *Boston Herald*
Special Recognition: Jim Hardeman
Victim Witness Advocates Recognition

Keynote Address: Beckie Brown, National President
Mothers Against Drunk Driving (MADD)

Remarks: Governor William F. Weld and Lt. Governor Paul Cellucci

11:15 - 1:00 **Morning Session: Concurrent Workshops**

A. Domestic Violence: Current Issues
Moderator:
Thomas F. Reilly: District Attorney for Middlesex County
Member, Victim and Witness Assistance Board

Panelists:
Lt. Governor Paul Cellucci: Chair, Governor's Domestic Violence Commission
Carol Brayboy: Young Family Support Program, Boston City Hospital
Cynthia Dickstein: Victim Representative
Christine King, R.N., Ed.D.: Associate Professor of Nursing, U-Mass Amherst and Co-Director, Primary Health Care Project for Abused Women
Betsy McAlister Groves: Director, Child Witness to Violence Project, Boston City Hospital

Location: Gardner Auditorium, State House

B. Federal Crime Bills and Their Impact on Victims in Massachusetts
Moderator:
Ralph Martin: District Attorney for Suffolk County

Panelists:
Stephanie Goodman: Aide to Senator Edward M. Kennedy and the Senate Judiciary Committee
Philip Johnston: Regional Administrator, U.S. Dept. of Health and Human Services
Kathleen O'Toole: Secretary, Massachusetts Executive Office of Public Safety
Donald Stern: U.S. Attorney for Massachusetts

Location: Metropolitan District Commission Building, 20 Somerset Street

C. Sexual Assault: Current Legal and Health Issues
Moderator:
Gerard D. Downing: District Attorney for Berkshire County
Member, Victim and Witness Assistance Board

Panelists:
Lucy M. Candib, M.D.: Physician, Family Health and Social Service Center
Joseph Doherty, Ph.D.: Clinical Director, New Directions for Men, Inc.
Janice Howe: Assistant District Attorney, Essex County
Mary Roe: Victim Representative
Nancy Scannell: Associate Director for Education, Rape Crisis Center of Central Massachusetts

Location: One Ashburton Place, 21st Floor

D. Truth in Sentencing: Where Do We Stand?
Moderator:
Mary Ellen Doyle: Member, Massachusetts Parole Board
Member, Victim and Witness Assistance Board

Panelists:
Hon. Robert A. Mulligan, Chief Administrative Justice of the Superior Courts, and Chairman of the Sentencing Commission
Brackett Denniston, III: Governor's Chief Legal Counsel
Representative Joseph McIntyre: Co-Chairman, Judiciary Committee
William D. O'Leary: Commissioner, Department of Youth Services
Maria Rodriguez: Assistant District Attorney and Director of Victim Services, Hampden County, and Member, Sentencing Commission

Location: Church of the New Jerusalem, 140 Bowdoin Street

E. Teen Violence Prevention: It Starts Here
Moderator:
Deborah Hall Grant: Member, Victim and Witness Assistance Board

Commentator:
James Fox: Dean, College of Criminal Justice, Northeastern University

Teen Panelists:
Pauldrine Francois: Student Alliance Against Racism and Violence, Norfolk County District Attorney's Office
Jane Morrison: Dating Violence Intervention Project, Cambridge
Heather Senecal: SCORE (Student COnflict Resolution Experts), Worcester
Nathan Thomas: Ten-Point Coalition, Roxbury
Antonio Thompson: Gang/Drug Prevention Program, Mattapan

Location: Paulist Center, 5 Park Street

1:00 - 2:30 **Lunch Break** - View Exhibits

2:30 - 4:00 **Afternoon Session** - Gardner Auditorium

Paths to Healing: A Conversation Among Crime Victims
A Special Program for Victims, Survivors, Advocates and Service Providers

Facilitator:
Jean Joyce-Brady, Ph.D.

Participants: To Be Announced

The Commonwealth of Massachusetts

A Proclamation

By His Excellency

GOVERNOR WILLIAM F. WELD

1995

WHEREAS: Violent crime and victimization are foremost concerns of our communities, state, and nation; and

WHEREAS: The physical, emotional, and financial impact of crime has a devastating effect on the fabric of our Commonwealth; and

WHEREAS: All citizens deserve to be treated with dignity, compassion, and justice, and such treatment has not always been afforded to crime victims, witnesses, and their families; and

WHEREAS: Too many lives have been lost to brutal, senseless acts of criminal violence; and

WHEREAS: Certain categories of crime, such as domestic violence, rape, and child sexual assault, too often remain unreported because victims are disbelieved, intimidated, and stigmatized; and

WHEREAS: A critical need exists for programs to assist crime victims and their families in protecting their rights, ensuring their safety, and rebuilding their lives; and

WHEREAS: Thousands of Massachusetts citizens, through volunteer and professional efforts, are devoted to advocating for the rights and services for all crime victims;

NOW, THEREFORE, I, WILLIAM F. WELD, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of April 23rd through April 29th, 1995, as

VICTIM RIGHTS WEEK

and urge all the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

Given at the Executive Chamber in Boston, this tenth day of April, in the year of our Lord one thousand nine hundred and ninety-five, and of the Independence of the United States of America, the two hundred and nineteenth.

William F. Weld

WILLIAM F. WELD

By His Excellency the Governor

WILLIAM F. GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

AN ACT RELATIVE TO VICTIM ASSISTANCE
FACT SHEET: S.880

BACKGROUND

A decade has passed since Massachusetts established one of the nation's first statewide systems of victim assistance and enacted one of the first Victim Bill of Rights, M.G.L. c.258B. Since then, there has been enormous progress at the state and national levels in generating awareness and improving the treatment of victims of crime. Today, all but a few states have laws improving the treatment of crime victims in the criminal justice system and new standards have been put forth by the National Conference of Commissioners on Uniform State Laws.

Given the advances that have been made across the nation, the Massachusetts Victim and Witness Assistance Board conducted a comprehensive review of our existing laws to determine how effective they are in providing the desired level of protection and recognition to crime victims. This bill addresses the most critical issues identified by crime victims and continues the Commonwealth's tradition of being on the forefront of the victim rights movement.

PROPOSAL

This legislation declares that crime victims and members of their immediate families deserve to be treated with dignity and with respect for their privacy by all branches of the criminal justice system. The bill codifies the best practices currently in use by prosecutors and victim advocates to serve crime victims. In particular, it provides that crime victims have the right:

* to receive information on how the criminal justice system works, what to expect in the course of the particular criminal case, how to register with CORI, and how to file for victim compensation;

* to confer with the prosecutor at the start of the case, before the case is dismissed or negotiated, before sentencing recommendations are made, and when a defense motion has been made to obtain confidential records concerning the victim;

* to be present in the courtroom, along with family members, during all public court proceedings unless the person will be called as a witness and the judge determines that the person's testimony would be materially affected;

* to give a victim impact statement prior to sentencing in all crimes against the person or crimes where physical injury to a person results, rather than only in felony and vehicular homicide cases;

* to receive an explanation of the type of sentence imposed by the court and information regarding the defendant's terms of probation or incarceration and parole eligibility.

SPONSORS

Chief Sponsors: Senator Jacques and Representative DiMasi
Co-sponsors: House Speaker Flaherty; Senators Amorello, Antonioni, Barrett, Berry, Bovenini, Clancy, Hicks, Jajuga, Keating, Shannon, Travaglini and White; Representatives Brett, Caron, Cohen, Cuomo, Forman, Fox, Gray, Hayward, Jehlen, Kennedy, McIntyre, Menard, Owens-Hicks, Reinstein, Resor, Story and Thompson; and Attorney General Scott Harshbarger. (1994/1995)

STATUS

In 1994, this legislation received favorable reports from the Joint Committee on the Judiciary, Senate Ways and Means and Senate Steering and Policy. The revenue provisions of the bill, which are dedicated to supporting the state's victim witness assistance programs, were enacted as part of the state budget for FY95. The bill was engrossed by the Senate on December 6, 1994. It was refiled for 1995 and received a favorable report from the Judiciary Committee.

For more information, contact Heidi Urich or Shelagh Lafferty at the Victim and Witness Assistance Board at 727-5200.

Massachusetts Office for Victim Assistance
Calendar of Events Recognizing Victim Rights Week
April 23-29, 1995

EVENT	DATE/TIME LOCATION	CONTACT
MASSACHUSETTS VICTIM RIGHTS ANNUAL CONFERENCE Annual Conference sponsored by the Victim and Witness Assistance Board, the Massachusetts Office for Victim Assistance and the Attorney General's Office, with co-sponsoring victim advocacy organizations.	April 25, 1995 8:00am - 4:00pm State House BOSTON	Cheryl Watson MASSACHUSETTS OFFICE FOR VICTIM ASSISTANCE (617)727-5200
EAST BOSTON DOMESTIC VIOLENCE ROUNDTABLE Presentation by Joseph Chery, Director of Boston Against Drugs.	April 13, 1995 2:00pm District Court EAST BOSTON	Sara Torra, V/W Advocate Suffolk County D.A.'s Office (617)567-8650
PERFORMANCE AND POETRY READING Performance and poetry reading by Tina D'Elia, of Boston Area Rape Crisis Center, focused on ending violence against women and empowering women, sponsored by the Radcliffe Union of Students.	April 18, 1995 7:30pm- 9:30pm 10 Garden Street CAMBRIDGE	Lucy Costa (617)493-7004 Bina Gogineni (617)493-3605
ROXBURY DOMESTIC VIOLENCE ROUNDTABLE Presentation by the Department of Social Services Domestic Violence Unit and Nai Alimayu from Roxbury District Court's Child Care Center.	April 18, 1995 1:00pm District Court ROXBURY	Kathryn Knee, V/W Advocate Suffolk County D.A.'s Office (617)445-8618
BRIGHTON DOMESTIC VIOLENCE ROUNDTABLE Presentation and discussion by Sgt. Detective Jeanette Attebury, Boston Police Domestic Violence Unit, and Lt. Rachel Keefe, Boston Police Sexual Assault Unit.	April 19, 1995 3:00pm District Court BRIGHTON	Julie Becker, V/W Advocate Suffolk County D.A. 's Office (617)782-5236

EVENT	DATE/TIME LOCATION	CONTACT
"DEFENDING OUR LIVES" PRESENTATION Lisa Grimshaw will speak about her personal experiences as a battered woman who served time in prison, cosponsored by Response and the Radcliffe Union of Students.	April 19, 1995 7:30pm Emerson Hall 105 Harvard Yard CAMBRIDGE	Lucy Costa (617)493-7004 Bina Gogineni (617)493-3605
"TAKE BACK THE NIGHT" RALLY AND MARCH A public rally and march to raise awareness about violence against women, with open mic, sponsored by the Radcliffe Union of Students.	April 20, 1995 7:30pm Malkin Athletic Center 39 Holyoke Street CAMBRIDGE	Lucy Costa (617)493-7004 Bina Gogineni (617)493-3605
POMC 8th ANNUAL BALLOON LAUNCH AND AWARD CEREMONY Lift off of 1000 balloons each in memory of a murdered child, with an award presentation. (rain or shine)	April 22, 1995 1:00pm State House steps BOSTON	Susan Bercume Parents of Murdered Children (617)846-9098
WALK AGAINST VIOLENCE Community members will walk around Horn Pond in Woburn to Joyce Middle School, approximately 4 miles, to a health fair by the Lion's Breakfast Club, sponsored by Woburn Coalition Against Substance Abuse.	April 22, 1995 8:30am- 3:00pm Joyce Middle School WOBURN	Ron Hobby or Susan Nocella Woburn C.A.S.A (617)935-0161
WALK FOR THE CHILDREN OF BOSNIA 10k walk to raise money for the children of Bosnia, sponsored by the New England Bosnia Relief Committee.	April 23, 1995 1:00pm B.U.'s Marsh Chapel BOSTON	N.E. Bosnia Relief Committee (617)269-5555
VICTIM SENSITIVITY TRAINING Training provided to develop sensitivity to victim issues, help recognize calls that may be abuse related, and provide an update on services available.	April 24-28, 1995 various role calls Fire Department WINTHROP	Sara Torra, V/W Advocate Suffolk County D.A.' s Office (617)567-8650

EVENT	DATE/TIME LOCATION	CONTACT
WEST ROXBURY DISTRICT COURT COMMUNITY FORUM Meet representatives from the Suffolk County District Attorney's Office, Probation Department, and the Boston Police Department. Learn how this court serves the community.	April 24, 1995 6:00pm- 8:00pm 23 Florence Street ROSLINDALE	Karen Kane, HRC (617)325-9022 Lee Nugent, D.A.'s Office (617)524-8081
"VOICE FOR JUSTICE" AWARDS BANQUET An awards dinner to honor Attorney General Scott Harshbarger, Senator Lucile Hicks, Ron Ponte of Newton-Wellesley Hospital, Cheng Imm Tan of Asian Task Force Against Domestic Violence, and domestic violence survivor Stacey Kelly.	April 25, 1995 6:30 cocktails 7:30pm- 9:30pm Marriott Hotel NEWTON	Robin Morgasen or Halicue Gambrell The Support Committee for Battered Women (617)891-0724
C.A.T. "KICKOFF" Mothers Against Drunk Driving "Kickoff" for a Community Action Team in Essex County, with participation of the 7 county chapters.	April 26, 1995 7:30pm call for location HAMILTON	David St. George MADD Statewide Office (800)633-6233
VICTIM MEMORIAL VIGIL Victim and family survivors will speak, with musical presentations; co-sponsored by the Essex County District Attorney's Office, Lawrence Mayor's Office and Police Dept. and many victim service and support groups.	April 26, 1995 7:00pm- 8:00pm Appleton Way City Hall LAWRENCE	Michaelene McCann D.A.'s Office (508)745-6610
OPEN HOUSE AND PANEL DISCUSSION Special guest speaker and panel discussion for homicide survivors on the impact of homicide, sponsored by Roxbury Comprehensive Community Health Center	April 26, 1995 5:00pm- 8:00pm 435 Warren Street 3rd fl. BOSTON	Donald Graham, Director Living After Murder Program (617)541-3790 ext. 719
MIDDLESEX DISTRICT ATTORNEY'S APPRECIATION PRESENTATION The District Attorney will recognize and present certificates of appreciation to businesses and corporations that have been particularly responsive and respectful of crime victim's rights.	April 26, 1995 3:00pm 40 Thorndike Street CAMBRIDGE	Jeff Ryan Middlesex D.A.' s Office (617)494-4604

EVENT	DATE/TIME LOCATION	CONTACT
COMMUNITY VIOLENCE: HOW IS IT AFFECTING YOUR CHILDREN? Open House/Information Session. How is community violence impacting your child's or student's future? Learn how to identify the effects of violence on your children and how to help reduce their suffering.	April 26, 1995 10:00am- 2:00pm Dudley Square Library ROXBURY	Vivian Williams or Mike Galgon Project Aftershock (617)541-0341
DRUNK DRIVING VICTIMS HONOR COURT VICTIM ADVOCATES An appreciation plaque will be presented to the Victim/Witness Programs at the Hampden and Northwestern District Attorneys' Offices.	April 26 & 27, 1995 call for times SPRINGFIELD & NORTHAMPTON	Hannelore Simard MADD, Hampden County Chapter (413)592-9953
GUN VIOLENCE PREVENTION SUMMIT A meetingCo-hosted by MA Citizens to Prevent Handgun Violence and Handgun Control, Inc, will focus on strategies for building grassroots momentum to help prevent gun related tragedies.	April 26, 1995 8:00am tba	MA Citizens to Prevent Handgun Violence (617)783-1419
OPEN HOUSE FOR CORI REGISTRATION Staff will be on hand to register victims with the Criminal History Systems Board and answer questions about the CORI law .	April 26, 1995 10:00am- noon 14 Beacon St. Ist. fl. BOSTON	Constance Egan Joey Fournier Services (617)248-0066
THE NEW DRUNK DRIVING LAW: HOW IT PERTAINS TO VICTIMS A panel of professionals, A Judge, Assistant District Attorney, Defense and Civil Attorney, and Chief Probation Officer will address the issue.	April 26, 1995 8:00am- 4:00pm White's of Westport, Rt. 6 WESTPORT	Richard A. Souza, President MADD, Bristol County Chapter (508)673-6233
SARAH AND JAMES BRADY EVENT The Brady's will be guests of honor at an evening fundraising reception to benefit MCPHV with their goal to reduce the incidence of gun related deaths.	April 26, 1995 6:00pm- 8:00pm tba	MA Citizens to Prevent Handgun Violence (617)783-1419
"ADVOCATING FOR CHILDREN AND THEIR FAMILIES IN THE COURT " A program for staff of the South Boston Neighborhood House and the community, sponsored by the Suffolk County District Attorney's Child Abuse Unit.	April 27, 1995 12:00 noon Neighborhood House SOUTH BOSTON	Gina King, S.B.N.H. (617)268-1619 Debbie DiMaggio, D.A.' s Office (617)725-8760

EVENT	DATE/TIME LOCATION	CONTACT
DOMESTIC VIOLENCE ACTION PROGRAM OPEN HOUSE An open house for community representatives to visit the new home of the DVAP. Each visitor will be provided with a victim services folder describing available resources for domestic violence victims.	April 27, 1995 4:30pm- 8:30pm 180 Belmont Street BROCKTON	Pat Kelleher Brockton Family and Community Resources (508)583-5200
"THE TOUGH ROAD TO THE BRADY LAW" A speech by Sarah Brady, President of Handgun Control, sponsored by Ford Hall Forum. Free to the public.	April 27, 1995 7:00pm Old South Meeting House BOSTON	Ford Hall Forum (617)373-5800
"PLANTING THE TREE OF HOPE: A PROMISE OF NEW LIFE FOR VICTIMS OF DOMESTIC VIOLENCE" To honor victims and reaffirm the community's commitment to protect and provide quality services. Statements by shelter advocates, a former victim and Mayor Mitchell.	April 27, 1995 10:00am Bicentennial Park FALL RIVER	Linda C. Aguiar Our Sister's Place (508)677-0224
SOUTH BOSTON DOMESTIC VIOLENCE ROUNDTABLE Presentation by the staff of EMERGE, a batterer's intervention program.	April 27, 1995 1:00pm District Court SOUTH BOSTON	Cheryl Bonnell (617)269-7777 Jacquie Buckley (617)725-8617
VICTIM MEMORIAL VIGIL Victim and family survivors will speak, with musical presentation; co-sponsored by the Essex County District Attorney's Office, Lynn Mayor's Office, Lynn Police Department, and many victim service and support groups.	April 27, 1995 7:00pm- 8:00pm Bandstand on Common LYNN	Michaelene McCann Essex County D.A.' s Office (508)745-6610
"EXTENDING THE CIRCLE OF SAFETY: FLOWERS FOR VICTIMS" Families, friends, concerned community members and victims will each dedicate a flower in the name of a sexual assault and/or domestic violence victim.	April 28, 1995 11:00am- 1:00pm City Hall BROCKTON	Kristen Ives A Womansplace Crisis Center (508)588-2042
RESPECT, TOLERENCE & DIVERSITY: THE CHALLENGE OF EDUCATION A conference sponsored by the Essex County District Attorney's Office in collaboration with Educational Development Center and Triton Regional Schools.	April 28, 1995 8:00am-3:00pm Ramada Hotel ANDOVER	Karen Wilk Essex County D.A.' s Office (508)745-6610

EVENT	DATE/TIME LOCATION	CONTACT
3RD ANNUAL VICTIM RIGHTS WEEK ROAD RACE 3.1 Mile road race co-sponsored by the Plymouth, Bristol, and Cape and the Islands District Attorney's Offices to benefit agencies within these districts that provide assistance to victims of crime.	April 29, 1995 1:00pm D.W. Field's Park BROCKTON	(508)584-8120, Michelle Mawn (508)997-0711, Michelle Stanton (508)362-8103, Virginia Bein
STATUS OF GIRLS CONFERENCE A conference sponsored by the Governor's Alliance Against Drugs.	April 29, 1995 9:00am- 4:00pm Community College ROXBURY	Governor Weld's Office Tonia Faust (617)727-0786
WALKATHON A 4 mile walk followed by ceremonies, readings, raffle and food.	April 29, 1995 9:00am- 12:00 noon 4 Evergreen Lane HOPEDALE	Mary E. Jackson Blackstone Valley Rape Crisis Ctr. (508)478-8775
WOMEN'S WELLNESS DAY A day long event to promote women's health and well being, free to women, men, and children, and will include 17 educational and movement classes, with an exhibit and information area.	April 29, 1995 10:00am- 5:00pm Regional High School MARTHA'S VINEYARD	Ann Wallace, Program Director Women's Support Services (508)693-7900 ext. 220
"TAKING STEPS" FOR WOMEN AND GIRLS Fundraising/Pledge Walk, 5k, to support the Rape Crisis Center of Central MA and 5 other organizations in Worcester serving women and girls, with music, food, entertainment and prizes.	April 30, 1995 11:00am- 2:00pm YWCA WORCESTER	Louise Mutterpurl YWCA Worcester (508)791-9546
VIGIL FOR HOMICIDE VICTIMS Celebration of victims' lives with prayers, music, and speakers, and a balloon launch with each victim's name read by families and community members, sponsored by Charlestown After Murder Program.	April 30, 1995 4:00pm- 6:00pm St. Catherine's Church CHARLESTOWN	Sandy King (617)356-5331 Pam Enos (617)242-0995
HATE CRIMES AND CIVIL RIGHTS LAW: PANEL DISCUSSION AND PUBLIC FORUM Franklin County Coalition for a Safe Community and Northwestern District Attorney's Office, kickoff for 7th Annual Week of Awareness, panelists will answer questions concerning Hate Crimes and Civil Rights.	May 1, 1995 12:00- 2:00pm Community College 1 College Drive GREENFIELD	Susan Manatt Northwestern D.A.' s Office (413)586-5780

EVENT	DATE/TIME LOCATION	CONTACT
TEAM IMPROV/ROLE PLAY DEMONSTRATION & MULTI-CULTURAL POT LUCK SUPPER Sponsored by the Teen Empowerment & Mediation Project and the Multi-Cultural Club & International Club as part of a Safe Community's 7th Annual Week of Awareness.	May 2, 1995 6:00pm St. James Parish Hall GREENFIELD	Court Dorsey Franklin Mediation Service& County Coalition (413)774-7469
FILM "DEFENDING OUR LIVES" 1994 OSCAR winning film about 8 women incarcerated in Massachusetts for killing their batterers, and their struggles for freedom, presented as part of 7th Annual Week of Awareness	May 3, 1995 12:00 Noon College Cafeteria GREENFIELD	Jane Lerner Community College & County Coalition (413)774-3131
8TH ANNUAL TAKE BACK THE NIGHT RALLY AND MARCH Rally, speakers, self-defense demonstration, music, and march, sponsored by the New England Learning Center for Women in Transition and Franklin County Coalition for a Safe Community	May 4, 1995 7:00pm Town Common GREENFIELD	Mary Kociela NELCWIT (413)772-0871
REFRAMING DOMESTIC VIOLENCE A conference to bring together service providers, activists, and theorists to explore institutional approaches to empowering battered women, followed by a dinner and evening panel.	May 4, 1995 8:00am- 9:00pm Main Building BOSTON	Simmons College (617)521-2480
TRAUMA AND MENTAL HEALTH: WHAT HELPS? WHAT DOESN'T A conference to educate health care and rehabilitation providers to the signs of psychological trauma in consumers with mental illness.	May 12, 1995 8:30am- 3:30pm State College FRAMINGHAM	Laura Zeigler Department Of Mental Health (617)727-5500 ext. 417
"INCREASE THE PEACE WEEKS" State and community agencies plan violence prevention activities in coordination with the Department of Public Health.	May 14-28, 1995 call for details	Selena Respass Office of Violence Prevention MA Dept. of Public Health (617)727-1246

Compiled April 1995 by the Massachusetts Office for Victim Assistance (617)727-5200

MADD™

Mothers Against Drunk Driving

511 E. John Carpenter Frwy., Suite 700 • Irving, Texas 75062-8187 • Telephone (214) 744-MADD • FAX (214) 869-2206/2207
NATIONAL OFFICE

Beckie Brown
MADD National President

Beckie Brown's life changed forever on December 9, 1979 as she and her husband were driving home from a party. A police car with sirens blaring raced past them. Further ahead they came upon the scene of a crash caused by a 19-year old drunk driver. The driver of the other car was killed instantly. He was Marcus Brown, Beckie's 18-year old son.

The drunk driver was not injured in the crash and was sentenced to eight years in prison for his crime. He served only two.

Since that horrible day more than a decade ago, Beckie has channeled her grief into the fight against drunk driving. In 1982, she founded the MADD Pasco County Chapter in Florida and served as its first president. She helped to form the MADD Florida state organization and organized its first state convention, as well as other chapters in the Tampa Bay area.

Beckie emerged as a national leader for MADD and the drunk driving issue when she was elected to the MADD National Board of Directors in 1986. As chairperson of the Board's Public Policy Committee from 1987 to 1990, she was instrumental in developing several of MADD's national programs to fight drunk driving, including the National Sobriety Checkpoint Week Campaign, Impaired Driving Issues Workshops and the "Rating the States" program. She also laid the foundation for "20 X 2000" – MADD's plan to reduce alcohol-related traffic deaths nationwide in the 1990s.

Beckie's involvement in virtually every facet of MADD's activities led to her election in October 1993 as MADD's National President – the fifth president in MADD's history.

In addition to her many accomplishments with MADD, Beckie has also received numerous awards for her achievements in the anti-drunk driving effort and other community activities. She was the recipient of the Concourse Council's Golden Key Award for the Tampa Bay Region and the Ninth Congressional District Distinguished Service Award. In 1991, she received the United States Department of Transportation Public Service Award.

During her two years as president, she will vigorously pursue MADD's mission to stop drunk driving and support victims of this violent crime.

Listing of Exhibitors:

Victim Rights Conference 1995

Asian Shelter and Advocacy Project: Boston, MA
Attorney General's Victim Compensation Unit: Boston, MA
Believe the Children: Cary, Illinois
Boston NOW Clothesline Project: Boston, MA
Casa Myrna Vazquez, Inc.: Boston, MA.
Charitable Insurance Agency, Inc.: Gloucester, MA
Community Program Against Sexual Assault: Dorchester, MA.
Criminal History Systems Board, Victim Services Unit: Boston, MA
Domestic Violence Action Program, Brockton Family and Community Resources, Inc.: Brockton, MA
Domestic Violence Supportive Care, Inc.: Lawrence, MA.
Domestic Violence Ended--D.O.VE, Inc.: Quincy, MA.
Domestic Violence Prevention Project, UMass Medical Center: Worcester, MA
Gang/Drug Prevention Program, Department of Health & Hospitals: Boston, MA
International Institute: Boston, MA
Joey Fournier Services: Boston, MA.
Living After Murder Program (LAMP): Roxbury, MA
MADD, Massachusetts State Office: Framingham, MA.
Massachusetts District Attorneys' Offices, Victim Witness Assistance Programs
Massachusetts Citizens to Prevent Handgun Violence: Boston, MA
Massachusetts Coalition of Battered Women Service Groups: Boston, MA
Massachusetts Coalition of Rape Crisis Services: Worcester, MA
Network of Battered Lesbians: Boston, MA
Older Women and Domestic Violence Prevention, Mass. Department of Public Health: Boston, MA
On the Home Front: Wilbraham, MA.
Our Sister's Place: Fall River, MA.
Parents of Murdered Children: Boston, MA.
Pediatric Sexual Abuse Program, St. Anne's Hospital: Fall River, MA
School of the Museum of Fine Arts, Committee on Domestic Violence: Boston, MA
Services Against Family Violence: Malden, MA.
South Shore Women's Center: Plymouth, MA.
Support Committee for Battered Women: Waltham, MA.
Survivor Connections: Cranston, Rhode Island
Teen Dating Violence Caucus, (Mass. Coalition of Battered Women Service Groups): Boston, MA
The Daniel A. Larson Foundation for Assistance to Homicide Survivors: South Hadley, MA.
Transition House: Cambridge, MA.
Trauma Center at HRI, Arbour Health Systems Foundation: Brookline, MA
Victims of Violence Program, Cambridge Hospital: Cambridge, MA
Weapons Related Injury System, Mass. Department of Public Health: Boston, MA
Woman'splace Crisis Center: Brockton, MA.

Recognition of Victim Witness Advocates

Celebrating Their 10 Years of Service to Crime Victims

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Workshop A
Domestic Violence: Current Issues

Domestic Violence: Current Issues

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In memoriam

Traditionally on this day, we list the names of the victims – mostly women – killed during the year in acts of domestic violence. Yesterday's unspeakable events in Brookline, where two women were murdered at two abortion clinics, force us to reflect on another kind of violence: terrorist battering aimed at women who dare to control their own lives and bodies.

Friday's murders marked the fourth and fifth shooting deaths at abortion clinics since March 1993, when Dr. David Gunn was killed in Pensacola, Fla. Once it might have been possible to believe that the brutal acts in Pensacola or Wichita, Kan., couldn't happen here. But political violence knows no moral, geographic or rational boundaries. Despite the claims of pro-lifers, yesterday's murders were not merely the acts of a deranged individual. Until all segments of society – the courts, Congress, the church, the schools and the media – speak out swiftly and surely against hate crimes, we are all living in Pensacola.

• • •

For those waging battle against domestic violence, 1994 was a notable and tragic year. Notable because several pieces of legislation designed to protect victims became law. Tragic because, despite increased public awareness, better services and legal intervention, 31 Massachusetts residents still died in battering incidents.

One new law, passed in July, allows officers to confiscate the guns of anyone served with a restraining order. A bail reform law allows judges to consider dangerousness when setting bail for accused abusers. Another allows victims of battering to present their past abuse as testimony in their defense in trials for murdering their abusers. On Wednesday Gov. Weld signed a law establishing a statewide database for outstanding warrants, which will make it easier for police to track violators of restraining orders.

Several related bills deserve passage as soon as possible. None is more important than funding for a Massachusetts "Safe Plan," system of domestic-violence court advocates. Connecticut and Rhode Island already have such programs.

The deaths of the 23 women and eight men we mourn today underscore that even the best efforts cannot erase the horrors of battering. But the fight must continue for the countless victims whose lives hang in the balance. To them we wish health, help, peace and freedom from brutality in the new year.

■ **Jan. 3: C. Janice LaCava**, 51, of Worcester, shot to death by her estranged husband a week before a scheduled divorce hearing. Thomas LaCava, 53, was convicted of her murder this month.

■ **Jan. 8: Richard M. Whelden**, 29, of Hyannis, allegedly stabbed to death by his wife, Lisa Whelden, 27. He had been scheduled to go on trial Jan. 10 for abusing and threatening to kill her.

■ **Jan. 20: Marvina Stroman**, 20 and pregnant, of Springfield, fatally shot, allegedly by her boyfriend, Joseph Beamon, 21.

■ **Feb. 27: Helen Ferguson**, 41, of Salem, N.H., beaten with a wrench in Lawrence, allegedly by her husband, Richard Ferguson.

■ **March 5: Gail LeMieux**, 45, of Framingham, found strangled to death, allegedly by her former husband, Robert Bregoli, 46.

■ **April 1: Erika Epperson**, 20, of Hyannis, shot in the head, allegedly by her boyfriend, Justin Ward, 24.

■ **April 16: Joseph A. Goodwin, Jr.**, 25, of Worcester, allegedly stabbed to death by his former wife, Christine Jarvis, 27, who had taken out two restraining orders against him in 1992.

■ **April 17: Kim Seng**, 24, of Fitchburg, shot to death in Lowell, allegedly by her husband, Saroun Nam, 26.

■ **May 6: Donna Bianchi**, of Revere, 23, the mother of an infant son, allegedly shot to death by her husband, Robert Bianchi Jr., 31. He had previously been arrested for allegedly assaulting her.

■ **May 12: Carmella D'Orsi**, 43, of Everett, beaten to death, allegedly by her boyfriend, Anthony Abate, 45.

■ **May 17: James McCollum**, 39, of Lynn, allegedly stabbed to death by his girlfriend, Sharon Wilcox, 37. A restraining order issued March 29 against McCollum was withdrawn eight days later, after the couple reconciled.

■ **May 21: Kristen Keefe**, 22, of Rockland, allegedly killed by her boyfriend, Edwin Smith Jr., 24.

■ **June 7: May Flores**, 22, of Dorchester, fatally shot, allegedly by her boyfriend, King Belin, 19, the father of her 4-year-old daughter.

■ **June 26: Jennifer Chute**, 24, of Gloucester, killed with one bullet to the head, allegedly by her boyfriend, John Masello, 29.

■ **June 29: Melissa Herlihy**, 17, of Medford, who died at Massachusetts General Hospital after being shot in the face, allegedly by her boyfriend, Neil Niland, 20.

■ **July 8: Saroeun Ngrep**, 19, of Lowell, shot in the head, allegedly by her boyfriend, **Yan (Billy) Khoun**, 25, of Revere, who killed himself.

■ **July 14: Suzanne Prunier**, 24, of Malden, stabbed to death, allegedly by her boyfriend, Darron Conley, 22, of Winthrop.

■ **July 27: Mary Anne Soares**, 41, of Fall River, allegedly beaten to death by her live-in boyfriend, Arthur Beland, 45.

■ **Oct. 2: Judith Ryan**, 76, of Milford, bludgeoned to death, allegedly by her husband, **John Ryan**, 73, who then killed himself.

■ **Oct. 2: Cleopatra Cousins-Straker**, 41, of Dorchester, shot to death, allegedly by her husband, **Carlyle Straker**, 41, who apparently committed suicide by drowning nine days later.

■ **Nov. 2: Carrie Overstreet**, 59, of Dorchester, shot to death, allegedly by her boyfriend, **William Jordan**, 73, who then shot and killed himself.

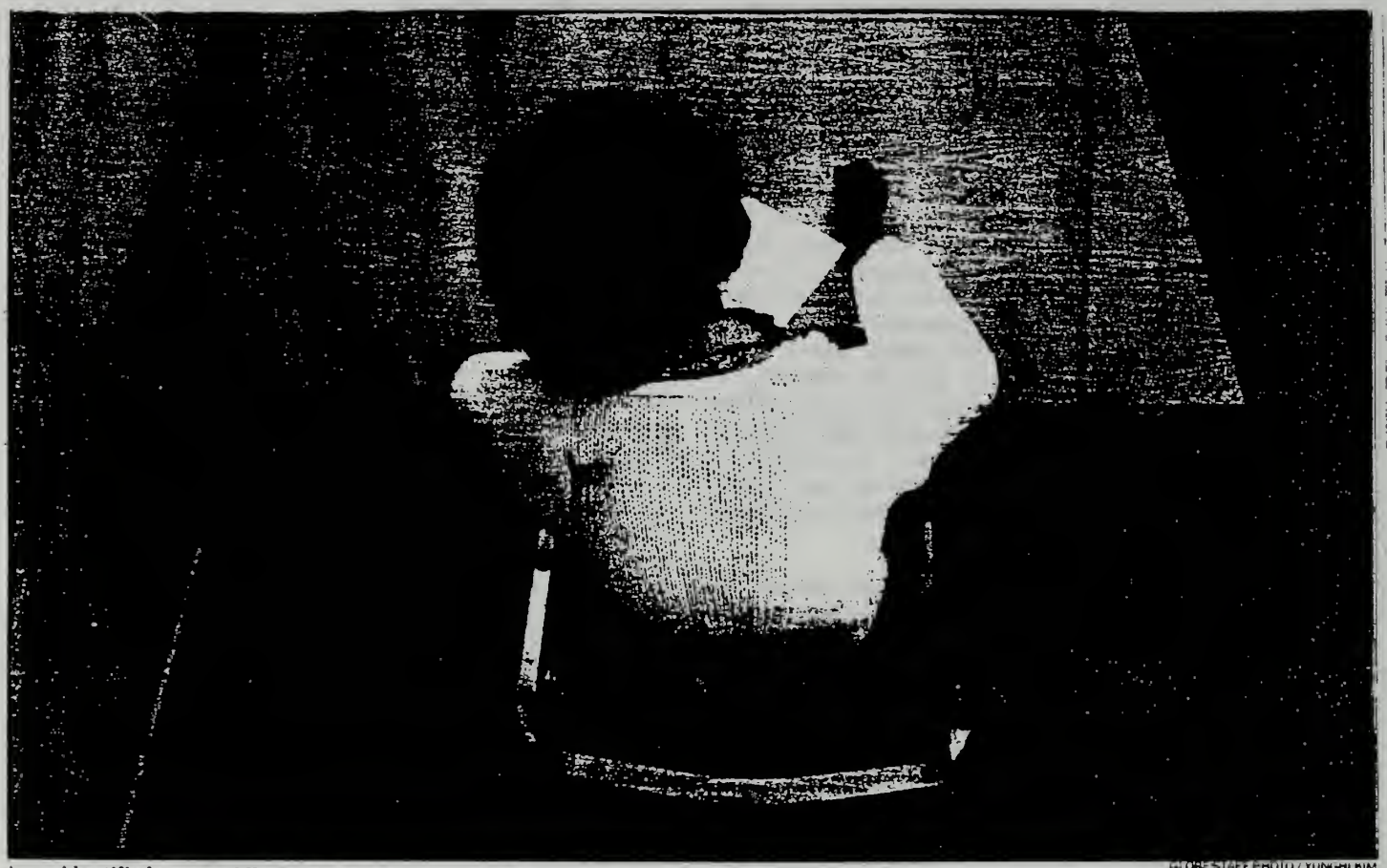
■ **Nov. 6: Diane Aleksa**, 34, of Lynn, shot to death, allegedly by her boyfriend, Preston Yancy, 35, who also allegedly shot and killed his estranged wife, **Sylvia Ann Yancy**, 35.

■ **Nov. 15: Kristal Hopkins**, 16, beaten, allegedly by Adam Rosier, 22. She later died of internal bleeding.

■ **Dec. 9: Tanya Lee Barnes**, 18, allegedly shot in the face by her boyfriend, **Derek Dunn**, 24, who then shot and killed himself.

■ **Dec. 17: Kristine Sylvia**, 40, shot several times in the chest, allegedly by her estranged husband, William Sylvia, 45.

The Boston Globe • THE BOSTON GLOBE • SATURDAY, DECEMBER 31, 1994



GLOBE STAFF PHOTO / YUNGHI KIM

An unidentified woman fills out a restraining order against a member of her family last week in Dorchester District Court.

In court, a case study in domestic danger

Confronted by their batterers, threatened women often opt for restraint

By Pamela Ferdinand
CONTRIBUTING REPORTER

In a courtroom painted a soothing pale blue, a 23-year-old mother of two asks the judge for a piece of paper to keep her ex-boyfriend from hitting her again.

Three days earlier, Ingride Francoeur says, he had slammed her against a wall and smacked her across the chest. But there in the judge's chambers last week, separated from her first love only by a courtroom bailiff, she couldn't tell him to go away.

How did she get to this point? Through the agonizing negotiations that go on in courtrooms every day between battered women and the men accused of beating them. She asks the judge to protect her; the man says he didn't hit her, only pushed her. She wavers; he cajoles. In the end, they stay together.

■ An East Boston woman is charged with shooting her ex-husband. Page 22.

Every day women like Francoeur – sometimes more than a dozen – enter Dorchester District Court on Washington Street, head up a flight of stairs and fill out requests for restraining orders with the fiercest of intentions to protect themselves and their children.

And every day, intimidated by paperwork and worn down by emotion, some succeed and others give up. Half are repeat attempts, courthouse workers say. Sometimes it takes one restraining order, followed by a court hearing, to drive home the point to an abusive spouse or boyfriend. Some-

BATTER, Page 22

Boston Globe
3/21/95

Amid threats, restraint in court

■ BATTER
Continued from Page 1

times it takes 50. Sometimes it doesn't work at all.

Elizabeth A. Lee of Marstons Mills got an emergency restraining order against her husband of one month, Emory G. Snell, Thursday night from Barnstable District Court. By Saturday, she was dead. Yesterday, her husband pleaded not guilty to her murder, the 17th of the year in Massachusetts believed attributable to domestic violence.

"The vast majority of women get a succession of restraining orders," said Andrea Cabral, chief of the Suffolk district attorney's domestic violence unit. "Most of them think it will scare him and he'll leave them alone, which is rarely the case. As a general rule, situations have to become progressively worse."

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Francoeur's case is typical.

She met Tasfa Wallace, now 24, five years ago while working at a Purity Supreme supermarket. He was her first boyfriend. They eventually moved in together and had two children, a girl now 2 and a boy who is 1.

Two years ago, her identical twin took out a restraining order against Wallace for verbal abuse. But Francoeur continued to live with him, even though he occasionally hit her, she said, and she recently began to suspect he was seeing someone else.

Last week he took the children to Providence, where his family owns a restaurant, but the phone number he left had been disconnected. In a panic she called police, but he was already on his way back to Boston.

He came home and angrily accused her of telling police he kidnapped the children. He began swearing and calling her names, held her against the wall and pushed her over a chair, at one point tying a telephone cord around her then dragging her into the bedroom, she contends.

The children woke up, and she ran downstairs to a neighbor's apartment to call police. By the time they got there, he had left, she says. And she had decided enough was enough.

"I could have pressed charges, I could have put him in jail, but no, I just want to make him think that this is a serious matter," she said after filling out a complaint for protection from abuse. "If I keep him away, he'll probably respect me a little more."

The hardest thing is that he was her first love, she said, wiping tears from under her glasses and pulling out a wallet-sized Christmas photo of the family. "I wanted so much out of the relationship. And it hurts me what's going on now."

Under the Abuse Prevention Law, anyone can ask for a temporary restraining order valid for 10 days from a local court, which generally grants the order in a hearing that day. The order may forbid defendants from abuse, contact and/or order them to leave a home or office, among other provisions, and is followed by a court hearing 10 days later.

When it comes to restraining orders, Suffolk County is a popular place and Dorchester District Court is the busiest court. One of every seven restraining orders in the state is issued in Suffolk, according to the district attorney's office.

Dorchester District Court issued 1,645 orders issued in 1994, down from 1,808 the previous year. That compares to 1,037 and 1,008 out of Brockton and Roxbury, respectively. Brighton issued 358 restraining orders last year.

Restraining orders are civil procedures, but violating them carries a criminal penalty. Although the overwhelming amount of domestic violence is aimed at women, men sometimes seek restraining orders, too.

• • •

During last Monday's hearing in Dorchester, Francoeur, wearing a lambs' wool-lined coat, a white silk blouse and dark, patterned pants, sits with her sister on a wooden bench facing District Judge Kathleen E. Coffey. Wallace, in an olive green coat and red pants, sits in the row behind her.

The door behind them occasionally opens and shuts, sending waves of noise into the quiet chamber from the crowded outer lobby. One woman asks the judge to evict her sister because she threatened to burn down her building. Another woman begs for protection from a lover who threatened her with a gun.

In a soft voice, visibly cowed by Wallace's presence, Francoeur asks the judge to order him to leave her alone. She thinks she'll stay with her mother or at a shelter.

Wallace, who later says he pushed her but never hit her, reminds the judge he is the family's sole financial support. He questions Francoeur's competence as a mother and says he wants everything from the apartment – the kitchen table, his computer.

The judge pages a victims' advocate, Kim Nguyen, who takes the couple upstairs to negotiate. Francoeur, who does not have a job, estimates her monthly expenses and expresses fear Wallace will get custody of the children.

"It's all about control," Francine Pado, a second advocate, tells Francoeur. She advises her to apply for government assistance. "You can make a clean break from him if you choose to."

But at each stage, Francoeur appears to waver more and more. Wallace asks to speak with her, insists they can work it out alone. The advocates warn he will be arrested if he speaks to her because the restraining order is in effect.

Back in the courtroom, the judge orders monthly $800 payments. Wallace again asks permission to speak with Francoeur. (She admits she still loves him.) The judge says she is sending "mixed signals," and allows the couple to meet upstairs in the presence of three police officers.

"She's scared, she's intimidated, obviously he's going to change her mind," says her sister, who asked not to be identified. "That's why he wanted five minutes away from the courtroom."

It works. Francoeur says he told her he loves her, he didn't mean to hurt her and he will give her anything she wants. "I feel that at least he's heard where I'm coming from," she says. "He knows the consequences. I think I learned from it and he learned from it."

• • •

Her reaction is common, especially among women who apply for restraining orders for the first time, advocates say. Pado urges Francoeur to think of her and her childrens' safety.

"A lot of women come in and say the same thing you're saying," she says. "I believe he needs a strong message. I don't believe he'll take 'no' for an answer."

But Francoeur, troubled and unsure, in and out of the courtroom at least four times in as many hours, has made up her mind. She opts for a scaled-down, "no abuse" only restraining order.

The judge, obviously disappointed, says she respects her decision and grants the order for one year. Wallace asks for an explanation. Does this mean every time they argue she can call the police, he asks.

"It means that you must treat her with the utmost respect as a woman and as the mother of your children," Coffey says.

He asks, "Could you give me an example?" And outside the courtroom, he says to Francoeur, "Do you know what you did? Do you know what could have happened to me?"

Minutes later, Wallace and Francoeur walk out of the courthouse and down the street together, copies of the restraining order in their pockets.

SAFE PLAN* Massachusetts
(Assistance for Victims of Domestic Violence)
LINE ITEM 0840-0101 in FY '96 House 1
FACT SHEET

BACKGROUND

In 1991 a state of emergency was declared for victims of domestic abuse in response to the rising number of homicides. The high rate of domestic violence continues with nearly 50,000 victims seeking protective orders in the District Courts and Probate/Family Courts of the Commonwealth each year.

Research consistently shows that the most dangerous time for a victim of abuse is immediately after receiving a protective order or attempting to leave the relationship. Recent data show that 75% of abusers against whom protective orders are issued have a prior history of crime; 50% have a prior record of VIOLENT crime. Victims seeking protection are in legitimate fear of further abuse. It is vital that victims to whom protective orders are issued receive immediate help developing a personalized safety plan. In addition, victims often need assistance with court forms, information about the legal process and referrals to community support services.

The 1993 *Guide to Domestic Violence Court Advocacy in Massachusetts* shows that 2/3 of the state's District Courts and Probate/Family Courts do not have full time specialized domestic violence advocacy services at the civil protective order stage. Both Connecticut and Rhode Island have established and funded such specialized advocacy programs to assist victims seeking protective orders in all their courts.

PROPOSAL

SAFE PLAN* Massachusetts will place specialized domestic violence advocates in the 67 District Courts and 15 Probate/Family Courts of the Commonwealth. This program was recommended for funding in FY'95 House 1, the House of Representatives FY '95 Budget and the FY '95 Supplemental Budget Request from the Governor. It is presently recommended in FY '96 House 1 for an appropriation of $2.52 million. The program consists of:

- Eighty specialized domestic violence advocates to be trained and placed in district courts and probate/family courts to assist victims seeking civil protective orders. The Massachusetts Office for Victim Assistance will contract with community based programs to fill and supervise these positions. The 80 advocates will ensure a statewide program of safety planning, court assistance and community referrals for the nearly 50,000 victims of domestic violence seeking protective orders each year.

- Eleven regional coordinators to train SAFE PLAN Advocates and coordinate advocate coverage in their respective areas. Regional coordinators will facilitate cooperation and communication with district attorneys' offices, legal service providers, law schools and others involved with victims of domestic violence at court. They will assist in the recruitment and training of volunteers to augment the SAFE PLAN advocates.

- Statewide oversight by the Massachusetts Office for Victim Assistance (MOVA) which will be responsible for the management of contracts with community based organizations employing 80 SAFE PLAN advocates and 11 regional coordinators. MOVA will set performance standards and provide comprehensive training materials for all regional coordinators, court based advocates and volunteers.

URGENCY

Each month, 4,000 additional victims ask the courts of Massachusetts for protection from abusive partners. Implementation of SAFE PLAN Massachusetts will assure safety planning and advocacy services for those thousands of victims and their children.

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* Safety Assistance For Every Person Leaving Abuse Now

For more information, contact Marilee Kenney Hunt, Domestic Violence Project Coordinator or Heidi Urich, Executive Director, at the Massachusetts Office for Victim Assistance (617) 727-5200 FAX (617)-727-6552.

(1/27/94)

MASSACHUSETTS OFFICE FOR VICTIM ASSISTANCE

TRAINING MANUAL FOR SAFE PLAN MASSACHUSETTS ADVOCATES

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*For information on obtaining either training materials or advocate training using SAFEPLAN Massachusetts materials, contract Marilee Kenney Hunt or Laurie Salame at the Massachusetts Office for Victim Assistance, 100 Cambridge Street, Room 1104 Boston, MA 02202

April 1995

TRAINING MANUAL FOR SAFE PLAN MASSACHUSETTS ADVOCATES

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The Boston Globe: February 3, 1995

LIBBY ROCK ILLUSTRATION

Battered mother, shattered child

CYNTHIA DICKSTEIN

The little girl used to run into her bedroom closet, slamming the door shut behind her. She would crouch down in the dark, squeezing her eyes tight, shoving her fingers into her ears to try to escape the fright of her parents' fights – the angry yelling, the inevitable scream as the father's fist slammed into the mother, the inescapable thud as the mother was hurled against the wall or onto the floor.

When the child was older she tried to intercede, but the parents ignored her demanding abouts and her desperate sobbing. Sometimes she called the police, but they always ignored the red welts on the mother's body and her swollen, tear-stained face, shaking their heads in silent understanding and commiseration as the father calmly explained that the wife had been drinking, that the resulting dispute had been nothing serious and was now resolved.

The abuse was not only physical. The husband didn't allow his wife to drive, to handle money, to have any independence. She was a beautiful woman, and he wanted her at home, safe from temptation, under his control. And he systematically demolished her self-confidence and self-esteem with comments such as: "Don't talk when we are with other couples. It is one thing if they think you are stupid, it is another thing for you to prove it to them."

The mother tried to cope by drinking, and eventually by seeking the comfort and companionship of other men. The father suspected and had her followed by two private detectives, who described in detail, in writing, her every move for the eight months they had kept her under surveillance.

On July 6, 1966, armed with the documentation of those private investigators, the husband was granted a divorce in New York on the grounds of adultery without having to pay one cent to his wife of 22 years, either in settlement or in alimony. The 42-year-old wife had no one who could document the physical, mental and emotional abuse to which she had been subjected. She lost everything – her home, any financial security and even the freedom to remarry because the male judge ordered, adjudged and decreed that "it shall be lawful for the plaintiff to marry again the same as if the defendant were dead, but it shall not be lawful for the defendant to marry any person other than the plaintiff during the lifetime of the plaintiff except by express permission of the court."

The mother also lost the respect of the teen-age daughter, who was ashamed of her mother's behavior during the last few years of the marriage and feared that she would someday turn out to be just like her.

The daughter could see only that the mother drank too much and went out with men while she was married. The daughter couldn't see the mother's rage, the mother's humiliation, the mother's pain. And the daughter couldn't understand how the father she had idolized and adored could do wrong. The father had always treated the child as if she were the most precious thing in the world to him, never hit her as the mother did, instead built her self-confidence and self-esteem by telling her often how proud he was of her. He convinced her that when he hit the mother, it was unavoidable, that the mother pushed him to it.

So the child didn't blame the strong father for the divorce but instead the weak mother. In her defense, the mother simply said, sadly, "Someday you will understand."

And today I do. I understand the tragedy of lives like my mother's and like those of the 4 million women in the United States who are beaten by male partners every year.

Domestic violence is the leading cause of harm to women, resulting in more injuries than muggings, stranger rapes and car accidents combined. In the United States a woman is beaten by her husband every 7.4 seconds. Every month more than 50,000 US women seek restraining or protection orders. Fifty percent of all homeless women and children are fleeing domestic violence. From 1991 and 1994 in Massachusetts, 102 women were murdered by a current or previous partner.

'Someday you will understand,' she said. Today I do.

The repercussions resonate long after the violent act itself, and the battered women and wives are not the only victims. More than 3 million children witness acts of domestic violence every year, and more than half of the abused women who are mothers beat their children. These children of abused mothers are six times more likely to attempt suicide and 50 percent more likely to abuse drugs and alcohol.

What the statistics can't reflect is the unhappiness of these children, the guilt, the fear, the confusion of these children, who don't understand until they are much older, and some not even then, that there are no easy answers, that all relationships – and certainly those defined by conflict and violence – have many concealed layers.

I have a friend whose relationship with her emotionally distant yet seductive and promiscuous father was very complicated. After high school, she lived for five years with a man who hit her. When she finally escaped and took the man to court in Boston in the early '70s, the male judge told her there was no case – she and the man had lived together.

Eventually the man left her alone, but it took intensive therapy and 20 years before she was able to talk about it. "It never leaves you," she said recently at Brandeis University's Internship in the Prevention of Violence Against Women and Children. "It never goes away. Even now, sometimes I have nightmares. Sudden moves, loud voices, doors slamming – all give me a physical reaction, the sensation of blood draining from my body. But it is OK now: I am not ashamed anymore. I know I didn't deserve to be hit."

I don't think my mother ever understood that – that she didn't deserve to be hit. Nor did she ever know that on Sept. 1, 1967, Section 8 of the New York state Domestic Relations Law removed from all past and future judgments the provision stating that to marry one had to request and receive permission from the court. She never remarried, never regained her balance, never relinquished the alcohol that abused her body and her mind until it finally killed her when she was 59 years old.

GOVERNOR'S COMMISSION ON DOMESTIC VIOLENCE

The Governor's Commission on Domestic Violence was created in July 1993 by executive order to 1) identify potential gaps in the network of domestic violence prevention services and the criminal justice system and 2) make policy, legislative, and programmatic recommendations aimed at preventing domestic violence. The Commission, which is chaired by Lieutenant Governor Paul Cellucci, became the permanent outgrowth of a number of working groups that convened as a result of Governor William F. Weld declaring a state of emergency in 1992 in recognition of the epidemic of domestic violence.

The Commission, through its five subcommittees, is designed to bring a multi-disciplinary approach to the problem of domestic violence and is composed of representatives from the executive, legislative, and judicial branches of state government, battered women's advocacy organizations, the medical community, legal assistance groups, prosecutors, batterer and teen dating violence intervention programs, law enforcement, and the private sector. The following highlights the key accomplishments and recommendations of the Commission by subcommittee.

Transition

- Pursuant to an outside section in the FY94 final deficiency budget, the Transition Subcommittee evaluated research regarding the effectiveness of existing battered women's programs and their ability to meet the needs of special populations, and made recommendations to address these needs. Key recommendations include the need for increased funding for emergency shelters, substance abuse intervention programs for victims, residential transitional living services, increased services for cultural and linguistic minorities, visitation centers, and the creation of a statewide domestic violence civil court advocacy project.

- The Subcommittee has drafted Guidelines for Visitation Center Use in Domestic Violence Cases. Currently there are 3 centers in the Commonwealth which receive funding through federal grants out of the Department of Social Services. Pursuant to the Commission's recommendation, FY96 House One proposes $700K to establish more centers. At the December 1994 meeting, the Commission voted to forward the guidelines to DSS with the recommendation that DSS host public hearings on the draft guidelines.

- The Subcommittee is also examining issues of affordable housing, welfare, and the impact of domestic violence on children.

Legislation

- Based on the review and recommendation of initiatives by the Legislation Subcommittee, the Commission endorsed in principle a number of pieces of legislation for 1994 which would further clarify the powers of police, protect victims, and increase victims rights. On behalf of the Commission, the Lt. Governor sent letters to all legislators urging passage of these initiatives. A number of these bills including, bail reform, firearms, and the reform of the warrant system passed in 1994. Similarly, 1995 legislative priorities were discussed and endorsed at the Commission's April 1995 meeting.

- Throughout the year, the Legislation Subcommittee tracks bills relevant to domestic violence and provides information to legislators.

Uniform Enforcement

- Uniform Standards for Prosecutors and Police which were drafted by the Uniform Enforcement Subcommittee were distributed in September 1994 to all District Attorneys and Police Chiefs in the Commonwealth with the recommendation by the Commission that they be adopted. The Subcommittee is in the process of reviewing and updating the standards; these revised standards are expected to be discussed by the Commission at an upcoming meeting.

- In 1995, the Subcommittee will be developing recommendations about establishing a system of accountability for prosecutors and police. In addition the Subcommittee is exploring the suggestion of independent review teams in domestic violence deaths.

Batterer Intervention

- The Batterer Intervention Subcommittee reviewed criteria for Department of Public Health certified batterer intervention programs, and proposed a number of changes to the current standards. The Commission recommended that DPH host public hearings to solicit further input on the certification standards. Based on information received from the hearings, DPH has finalized revised standards and guidelines for the certification of batterer intervention programs.

- In 1995, the Subcommittee will be exploring topics such as court referrals to non-certified programs, monitoring and evaluation of batterer intervention programs, programs for adolescent and non-english speaking batterers, and training.

Community Education

- Based on a presentation by the Subcommittee on the issues of teen dating violence, the Commission has proposed to and the Board of Education has agreed to recommend to school districts that they implement school-based support groups for victims and strive

to increase awareness about the problem of teen dating violence. The Subcommittee will continue to work with the Department of Education on implementation.

- The health care subgroup has developed draft guidelines on "Developing Community Roundtables on Domestic Violence" which will be discussed at an upcoming meeting.

In addition, a task force headed by the Executive Office of Public Safety with designees from each of the subcommittees is collaborating on the application for funding for domestic violence and sexual assault under the federal crime bill. As part of this process, a statewide strategic plan for the funding will be developed.

And, in order to heighten public awareness about the problem of domestic violence and to share innovative approaches on domestic violence prevention, the Commission, in collaboration with the Massachusetts Committee on Criminal Justice, has produced and distributed a quarterly newsletter, the Forum, since February 1994..

* * *

The Commission welcomes suggestions on domestic violence prevention. For additional information, please contact Brooke White Sandford, Executive Director, Governor's Commission on Domestic Violence at Room 373, State House, Boston, MA 02133 or (617) 727-2040.

VOLUME I, NUMBER 4 MARCH, 1995

FORUM

GOVERNOR'S COMMISSION ON DOMESTIC VIOLENCE

COMMENTARY

Domestic Violence: A National Lesson

by Nan Stein

Ask Beth, the nationally syndicated teenage advice columnist, printed this letter on August 26, 1994:

> ***Dear Beth:*** *Do you think it's wrong to hit someone because you're really mad at her? How can I ignore my girlfriend when she's such a pain? All this O.J. Simpson stuff is making me wonder.* *WONDERING*

As the murder trial of O.J. Simpson unfolds, the nation is learning a crucial lesson on domestic violence. Similar to the "teach-in" on sexual harassment that Anita Hill\Clarence Thomas hearings provided in the fall of 1991, the subject of domestic violence has been the sub-text of the murder allegations. The release of Nicole Simpson's 911 call to the police in October 1993 made public a private nightmare -- a home invasion by her ex-husband, O.J. Simpson, and her private terror of being beaten again by him.

Educators should use this "teachable moment," gleaned from the private sphere of a couple's life and transferred in tragedy to the public sphere, to talk with young people about violence in interpersonal realtionships. Whether known as domestic violence, battering, dating violence, hazing, bullying and, I would argue, sexual harassment, we need classroom lessons and conversations, ones that do not demonize boys, present violent behaviors as inevitable or expected nor scare students from forming close relationships. We need to talk about the impact of these behaviors not only upon the targets and the perpetrators, but also upon the bystanders and observers of these events. Powerful lessons are conveyed when educators interrupt and disrupt these deleterious interactions. Different lessons are transmitted when we remain silent.

We must look at gendered violence in kids' lives. Again, from Ask Beth, on February 3, 1994:

> **Dear Beth:** *I am 11 years old and there's a boy in my class who just won't leave me alone. He chases after me and my best friend during recess. He hits and kicks me on the behind, stomach and legs. Once he slapped me so hard it brought tears to my eyes. I try to tell my teacher, but she just laughs and tells him, "If you like her so much, ask her for her phone number." Is this sexual harassment? If it is, what should I do?*
>
> *HATES BEING HARASSED*

This teacher infantilized these assaultive behaviors, perhaps perceiving them as flattery. Yet, when I read this letter aloud to middle and high school students, from Massachusetts to Alaska, and ask them "if these people were older, what might we call these behaviors?", I received answers like "dating violence," "assault", "domestic violence," and "stalking." Do the kids know something we adults don't want to know?

The Public Performance of Gendered Violence: Seeing Is Not Believing

Schools may be training grounds for the insidious cycle of domestic violence: girls are trained to accept this battering and assault, are taught that they are on their own, and see that the adults and

others around them will not believe or help them. Similarly, boys receive permission, even training to become batterers. Girls (and sometimes, boys) find that when they report sexual harassment or assault the events are trivialized while girls are demeaned and/or interrogated. Harassers, on the other hand, get the message that, since adults around them fail to intervene, they have tacit permission to continue with their assaults. Indeed, if school authorities do not intervene and sanction the students who sexually harass, the schools may be encouraging a continued pattern of violence in relationships. For all the other students, both boys and girls, who are bystanders or observers of these incidents, different yet equally deleterious messages are delivered - *what's wrong with you? Why aren't you engaging in this behavior?* And, most chillingly, -- *Just wait, you may be next,* and *we can't do anything to prevent it.*

Harassment happens while many people watch. Yet, despite rulings from the Office for Civil Rights and at least 10 pending Title IX cases in federal district courts, sexual harassment is still not really considered "violence" -- not by many educators, not by many law enforcement nor public health officials, and not by many nationally appointed or elected political leaders. What gives? The adults can't afford any longer to be in denial -- the kids sure aren't.

On a hopeful note about the difference we can make in the classroom when we raise the subjects of teasing, bullying, and sexual harassment, framed as issues of injustice, civil rights, and seen from the vantage points of the targets, harassers and observers alike, we can encourage children to see themselves as "justice makers" by emphasizing intervention strategies as opposed to behaviors which freeze them into being social spectators (Stein and Sjostrom, 1994).

Returning to the words of children, it is clear that this time from boys who confirm the existence of sexual harassment in schools, and its very public nature, even to the boys who are observers sexual harassment is sometimes scary, troubling, and certainly disruptive to the educational environment.

> *"Today, as usual, I observed sexist behavior in my art class. Boys taunting girls and girls taunting boys has become a real problem. I wish they would all stop yelling at each other so that for once I could have art class in peace. This is my daily list of words I heard today in art that could be taken as sexual harassment: bitch, hooker, pimp, whore."*
>
> *"Today for the first time I was witness to sexual harassment in my gym class. A couple of girls came into the exercise room today and suddenly, almost like a reflex, some of the boys began to whistle at them and taunt them. I was surprised since I had never seen this kind of behavior from my gym class before. Some of the boys that I considered my friends even began to do it. I felt awful to watch, but if I said anything it would not stop them and would only hurt me."*
>
> *"Today in class people reported their findings as ethnographers; that is, they told the class about the examples of sexual harassment they had witnessed. There were some pretty bad examples. It's amazing that this stuff goes on at our school. I think that part of the problem is that some kids don't know what sexual harassment is, so they don't know when they are doing it. One of the things that scared me was that no one said they had any trouble finding examples. Everybody found at least one or two examples and most people found many more. I found out that it happens everywhere: in the halls, the cafeteria, or even at basketball try-outs. It happens every where that teachers are not in direct supervision of the students."*
>
> *"I think it's good that the eighth graders are doing the curriculum at the same time, because then we can discuss it during lunch and stuff. I really do think that people are learning a lot from it. I mean, the person at our table at lunch who used to really be a sexual harasser has stopped and actually turned nice when all the girls at our table told him to stop or we would get Mr. (teacher) into it. I don't think he realized that what he was doing was really making us uncomfortable."*

Just wait, you may be next, and we can't do anything to prevent it.

These journal entries are hopeful beyond the insights, reflections, and behavioral changes in their peers which these students documented. These words point the way towards the impact that age appropriate, deliberate, and teacher-led structured conversations and lessons on difficult subjects can have in the lives of students. By creating a common classroom vocabulary and offering non-punitive and non-litigious ways to probe controversial and troubling subjects, educators and their students can confront and reduce sexual harassment and gendered violence in the schools. The first step is to recognize that sexual harassment, a gendered form of violence, is a common feature in children's lives in schools and that most adults are sitting back, watching it happen or treating it with "a wink and a nod." The next step is for the adults to name it as the kids see it, and to take it on -- publicly, in the classroom and throughout the whole school community. To eliminate sexual harassement in schools, a publicly performed and permitted form of gendered violence, might just be one of the ways to reduce the national epidemic of domestic violence.

[Nan Stein is the Co-Author of the curriculum on sexual harasment for 6th-12th grade students, **Flirting or Hurting?**, and the Senior Research Associate for Wellesley College Center for Research on Women]

Resources for Teens

1. BRIDGE OVER TROUBLED WATERS
(617) 423-9575
Individual counseling for teens

2. DOVE - (617) 773-HURT
24-Hour Hotline
Teen dating violence awareness groups at high schools. Call Fannie Naggar for more information 471-5087. Pamphlets are available.

3. SAMARITEENS - (800) 252-8336
24-Hour hotline that provides support and referrals for teenagers who are feeling lonely, depressed or suicidal.

4. ROCA-Reaching Out to Chelsea Adolescents
Chelsea: (617) 889-5210
Ramon Hernandez
Revere: (617) 284-6281
Maria Torre
Peer leadership group consisting of four young women who provide outreach services to high schools and individuals. Spanish speaking. Will be providing pamphlets, making presentations and conducting workshops.

5. TEEN LINE - (617) 534-5700
A crisis intervention, information and referral hotline for adolescents.

6. WOMANSHELTER\COPANERAS
Provides a video on teen dating violence prevention. for information or to order the video, call Kathleen Dowd, (413) 538-9717.

7. SOUTH SHORE WOMEN'S CENTER
(617) 476-2664 - Individual counseling, School workshops. Beginning to form after school groups for teens.

8. CHOICE THROUGH EDUCATION\SAFE HAVEN
(617) 884-4706 - Contact-Daniel Viggiani - Provides emotional support and referrals, especially in teen dating violence intervention and related trainings. Provides a life skills curriculum.

9. FLIRTING OR HURTING?
A curriculum on sexual harassment for 6th-12th grade students by Nan Stein & Lisa Sjostrom. For information, contact Wellesley College Center for Research on Women, Publication Office at (617) 283-2510.

Teen Dating Violence: A Response

by Diana Brensilber

The Dating Violence Intervention Project (DVIP), a collaboration between Transition House and EMERGE, was created to address the increasing problem of violence in adolescent dating relationships. Transition House is a shelter for battered women and children and EMERGE is a program providing counseling and education services to abusive males. An increasing number of hotline calls made by young women concerned the advocates of the Transition House. Even more troubling to them was seeing young women return to the shelter as battered wives when they had been there years earlier as children when their mothers were battered. The DVIP has provided a response to this problem and states as its primary goal to prevent dating violence and sexual abuse in adult relatonships by educating teenagers about those issues. The primary goal of the project is to prevent dating violence and sexual abuse in adult relationships by educating teenagers about those issues.

Encouraging schools and youth programs to develop violence prevention programs is a primary goal of the DVIP. The project has developed a useful training curriculum for teachers and other community educators to help teens identify abuse and its causes. Project facilitators hope that by learning about dating violence, teens will gain self respect as well as respect for others.

Approximately 4,000 teens in 20-25 schools or youth programs receive the curriculum each year. DVIP has trained 400 teachers and counselors. Beyond the training curriculum, the DVIP offers school-based counseling\therapy for both victims of teen dating violence, sexual assault and incest, as well as the aggressors in violent relationships. More than 500 teens receive peer leader training from DVIP staff each year. This training helps teens understand dating violence by defining abuse and respect, examining the "ideal date", and debating and recognizing sex role stereotypes. As a result, the peer leader is a valuable source of information for teens who are in abusive relationships.

The Coaliton of the Massachusetts Battered Women's Service Groups is currently drafting a resource guide, which will include a listing of shelters and services provided for teens.

[Diana Brensilber is a research associate for the Executive Office of Public Safety's Program Division]

Warning Signals

Signs that can help parents determine whether their child is in an abusive relationship

Using Male Privilege - Treats her like a servant, makes all the decisions.

Isolation - Controls what she does, who she sees and talks to and where she goes.

Emotional Abuse - Puts her down, calls her names, makes her think she's crazy.

Economic Abuse - Tries to keep her from getting or keeping a job, makes her ask for money.

Threats - Makes and\or carries out threats to do physical or emotional harm. Threatens to take children, to commit suicide.

Sexual Abuse - Makes her do sexual acts against her will.

Intimidation - Puts her in fear by using looks, actions, gestures or loud voices, smashing things, destroying her property, abusing pets, displaying weapons.

Denying, Blaming, Minimizing Makes light of the abuse and doesn't take her concerns seriously, shifts responsibility for abusive behavior and says she caused it.

If she is in an abusive relationship, parents can encourage their child to:

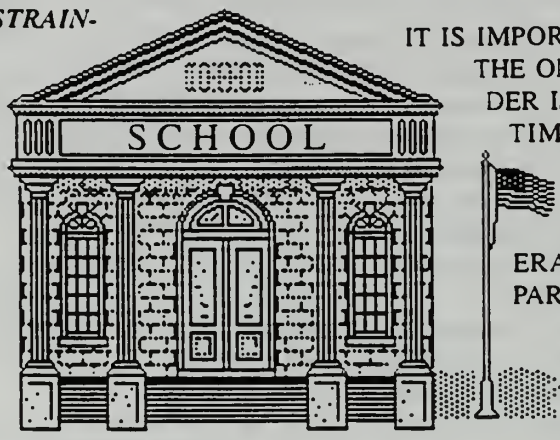
- Leave the relationship.
- Obtain a restraining order if necessary.
- Seek counseling.

[Source: Abuse Project]

WHAT CAN SCHOOLS DO TO RESPOND?

With the alarming statistics indicating that dating violence affects at least one in ten teen relationships it is becoming paramount that schools develop policies to respond to the increase and severity of interpersonal violence. Policies need to address methods to increase awareness of the issues for both students and staff, and to give the clear message to students, staff, and the community that violence will not be tolerated. The development of policies and procedures will help create a school climate that is supportive, respectful, and committed to providing a safe environment conducive for learning. The following information was prepared in the spirit of such efforts promoting violence prevention and intervention. Additionally, the development of a multi-disciplinary approach including the police, courts and community should be considered to best address these issues in a coordinated manner.

WHAT CAN A SCHOOL SYSTEM DO TO HELP PROTECT A STUDENT WHO HAS TAKEN OUT A RESTRAINING ORDER?



Staff and student awareness of dating violence issues are increased through training, policy development and implementation. It is hoped that all students will have an understanding of the school's sensitivity and commitment to insure safety for students who have obtained a restraining order through the court, through the utilization of safety plans and development of protective measures in school. School systems may want to develop their policies in collaboration with the police, courts, shelter legal advocates and the D.A.'s office. With this in mind, students should be encouraged and feel comfortable in approaching administrators to assist them in the process, so that the appropriate actions and safety planning will occur.

ONCE THE SCHOOL IS NOTIFIED OF A STUDENT'S RESTRAINING ORDER:

- The school administrator may want to hold **SEPARATE** meetings with each student and his\her family to gather any information, review the order and the implications.

Included as a part of this meeting should also be an agreement as to who this information will be shared with.

- A "Safety Plan" should be worked out to address the victim's needs, including "safety stops," staff to report to if concerns arise or a violation occurs, and any schedule changes that may be considered. This meeting should include a discussion of guidelines for appropriate behavior of the victim, such as not making comments to others which may inflame the situation.

- With the named defendant it is important to review the terms of the order, expectations around appropriate behavior, and the consequences for violation of the order.

- When possible it is important to address and make schedule changes to avoid face-to-face contact. When schedule changes are not possible, guidelines should be established around expected behavior.

WHAT GUIDELINES SHOULD BE CONSIDERED?

- It is important to establish clear guidelines around expected behavior in compliance with the issued order, for the benefit and safety of all parties. These could include: delineation of space between parties (feet, yardage, routes to classes), class or schedule changes. Giving a clear message that there should be no exchange (verbal or non-verbal, threatening or non-threatening) of comments, notes, gifts, or gestures is critical. This also includes no exchange of messages, notes, or gifts through a third party friend, student or staff member. **NOTE**: Given the reality of the close proximity within the school setting and\or the possibility of both students needing to remain in the same class, the order may need to be amended to reflect clear guidelines around contact in such instances.

IT IS IMPORTANT TO UNDERSTAND THAT THE ONUS OF THE RESTRAINING ORDER IS ON THE DEFENDANT. A VICTIM CANNOT VIOLATE THE RESTRAINING ORDER, THOUGH REALISTICALLY, REASONABLE BEHAVIOR AND COOPERATION IS REQUIRED BY BOTH PARTIES.

WHAT SHOULD HAPPEN IF IT APPEARS THAT THE ORDER IS BEING VIOLATED?

- VIOLATION OF A RESTRAINING ORDER IS A CRIMINAL OFFENSE AND SHOULD BE TREATED AS SUCH, BY REPORTING IT TO THE PROPER AUTHORITIES. (Schools may want to develop their own internal reporting mechanism, but ultimately the violation must be reported to police.)

NOTE: It is important that the school support the victim in reporting any violations that have been witnessed or reported. The school does not need to be the judge as to the violation, but should report the violation to the proper authorities for their determination of the necessary action to be taken.

ASSESSMENT INFORMATION SHOULD INCLUDE THE FREQUENCY AND NUMBER OF INCIDENTS:

- pattern or isolated incident, or
- first time reported incident or have there been previous reported incidents.

(This material was prepared through the collaborative efforts of staff from Essex County District Attorney Kevin M. Burke's Partnerships for Violence Prevention, Help for Abused Women and Their Children, and the Massachusetts Regional Prevention Center, Salem)

Children Exposed to Domestic Violence

by Rhiana Kohl, Ph.D.

Within the complex, multifaceted problems associated with domestic violence exist true "innocent bystanders," the children who witness such violence. All too often these children, so devastatingly affected by such exposure have received little attention, especially those left unharmed physically. Yet, evidence shows that millions of children are exposed to violence between parental figures each year. A recent study at the Pediatric Primary Care Clinic in Boston City Hospital found that one in ten children had witnessed a shooting or stabbing before age six years; half of these incidents were at home. The perspective that domestic violence is a "private" family matter continues to interfere with treatment. In fact, many professionals working in this area have found that parents believe their relationships with intimates to be not just off limits from the public domain, but a personal matter inappropriate for the child's inquiry as well. Thus, children are often left to cope on their own.

See No Evil

To single out one variable as a primary "cause" or "risk factor" for violent behavior is unrealistic and dangerous. Nonetheless, compelling evidence suggests that the impact of witnessing violence between parental figures contributes to short and long term emotional disturbances and behavior problems, often violent in nature. Symptoms most often associated with exposure to domestic violence are similar to those for Post Traumatic Stress Disorder (PTSD).

Problems exhibited by these children include developing feelings of emotional detachment along with anxiety about separation from caretakers, avoidance of all reminders of the incident, depression, anger, guilt, psychosomatic problems, sleep disturbances and nightmares from recurring images of the event. The resulting fatigue and other adverse effects often contribute to poor concentration and a decline in school performance.

Hear No Evil

The negative effects of exposure to violence in the home are mediated by the gender and age or developmental stage of the child as well as the length and frequency of the exposure. Children in violent families reportedly show a greater frequency of externalizing (i.e., aggression), especially boys, and internalizing (i.e., withdrawn, anxious) behavior problems compared to children from nonviolent homes. The development of more aggressive behavior combined with the need to protect one's mother from further harm, can have a catastrophic effect. One study determined approximately 63% of persons between 11 and 20 years incarcerated for homicide were convicted for murdering their mother's abuser. Many of these children try to act tough and mask their fears. They often stay home from school to protect their mothers from being assaulted in their absence. They are often traumatized by fear, frequently blaming themselves for not preventing the assaults, even believing that they are part of the cause. A tendency to lose respect for the victim and identify with the aggressor is common with children over age five.

Stong evidence supports the notion that witnessing violence in the family of origin is the most consistent and leading "risk factor" in predicting subsequent domestic violence for both husbands and wives. Spousal abuse demonstrates an "in-home" lesson on the role of violence in relationships. Children may learn this behavior as an acceptable means of achieving their goals.

With all this exposure to negative and aggressive role models and the endorsement of violent behavior, why is it that some of these children do not repeat a violent pattern of behavior? Many children are remarkably resilient in their adaptions. These children cope best when their sense of value and worth can be affirmed and significant adults in their lives are available to help them cope with their trauma. Temperament theory is applicable here too, as more evidence supports the notion that children are born with a strong bias favoring certain moods and styles of reacting. All such temperamental characteristics can be changed by experience, and all require certain experiences to be actualized. This supports the critical influence one's environment and nurturance play in directing these temperamental qualities to channel them in a healthy, functional, nonviolent direction.

With this in mind, what's being done about it? The Child Witness to Violence Project (CWVP) at Boston City Hospital is based on the premise that early intervention can help ameliorate the long term adverse effects of exposure to violence. They work in a collaborative effort providing counseling and support services to children and their families as well as training and consultative services to the police and community. This unique link is crucial since police officers are often the first on the scene of violent events, in a position to make appropriate referrals, and need proper resources and support to best serve children and families caught in violence.

The notable success of the program equals the commitment of the Project Director, Betsy McAlister Groves, LICSW and her dedicated staff. Evidence of the project's accomplishments includes the police department's positive response to working together. What was initially intended to be a more didactic police seminar on child development and the dynamics of family violence has evolved into a two-way exchange where all involved have an opportunity to learn about the experiences and knowledge unique to their working environment. This situation has provided officers with an outlet to express their concerns and frustrations. Furthermore, the service provider's understanding of what actually occurs when the police respond to domestic violence calls and the dangerous situations they encounter has been enhanced.

The primary sources for referrals to CWVP come from the hospital community, followed by the police and other criminal justice agencies. Evidence that awareness of the problem and identification of CWVP's services has grown is reflected in the increase in referrals from community sources and the families themselves. Some problems endured have been in confining the scope of their services to referral sources, maintaining uniformity in the context of which police referrals are made, and the need for transportation for clients to obtain counseling. Ideally, more families might utilize their services if the project could reach further into the community. Better coordination is needed between the services provided for adults and children. It is also important for all those involved in a violent family situation to recognize that services are still needed even after a crisis is over. Likewise, besides the traditional reluctancy found among families in violent homes to receive services, issues pertaining to cultural differences in parenting practices have also surfaced.

Clearly intervention in this manner contributes tremendously to not only breaking the intergenerational cycle of violence, but treating the often unnoticed bystanders so deeply affected, the children. More research is needed to obtain accurate data specifically about children who witness domestic violence, including those emotionally scarred, if not physically injured. We need to educate professionals, especially those in health care and education, to think of violence as a public health problem and encourage them to ask appropriate questions to identify those in need. If the topic is approached more matter-of-factly, avoiding the tendency to create a feeling of inappropriate intrusion into a private, embarrassing domain, more children could be provided with a means of expressing their distress and concerns and discovering that this happens to others. These children should be provided with not only the resources to break the cycle, but the skills needed to identify resources on their own. Many children, especially those with histories of witnessing domestic violence, will most likely confront potentially violent situations in their future. Thus, they need to be equipped with the strength and ability to deal with these situations appropriately, so they may grow and develop to their full potential.

A recent study at the Pediatric Primary Care Clinic in Boston City Hospital found that one in ten children had witnessed a shooting or stabbing before age six years; half of these incidents were at home.

All inquiries about CWVP can be directed to Betsy McAlister Groves, LICSW, at (617) 534-4244.

Also note that the Transition Subcommittee of the Governor's Commission on Domestic Violence has on its agenda to evaluate all existing research on children exposed to domestic violence. Contact Judith Lennert, Esq. at the Massachusetts Coalition of Battered Women Service Groups.

[Rhiana Kohl, Ph.D. is the Deputy Director for the Statistical Analysis Center at the Executive Office of Public Safety's Program Division]

Governor's Commission on Domestic Violence

Andrea M. Delfino, Layout & Design

The Governor's Commission on Domestic Violence is welcoming contributions for the Spring 1995 issue. Please call or send in ideas for articles and letters to Andrea Delfino at the Executive Office of Public Safety's Program Division, 100 Cambridge Street, 21st Floor, Boston, MA 02202. For publication in the Spring Edition of *FORUM*, submissions must be received by April 14, 1995.

FORUM is a periodical of the Executive Office of Public Safety published in collaboration with the Governor's Commission on Domestic Violence. Its purpose is to provide a forum for discussion and serve as a clearinghouse for information on the issues addressing the declared public emergency of domestic violence. We welcome your comments and story contributions to ***FORUM***.

FORUM

NEW DOMESTIC VIOLENCE RELATED LAWS[1]

Venue for criminal violations of c. 209A orders.

A new section 62A has been added to G.L. c. 277 providing that any criminal violation of an order issued under G.L. c. 209A may be prosecuted and punished in the court within whose jurisdiction the violation was *committed* or in the court that *issued the original order.*

The second option is new, and where the alleged violation was committed in a county different from the one in which the issuing court is located, may result in prosecution by a District Attorney's office not otherwise familiar with the alleged criminal act. Similarly, in cases tried to a jury in the jurisdiction of the issuing court, questions may arise regarding the source of jurors in if the alleged crime took place in a distant county.

Interstate enforcement of protective orders.

Another new provision is set forth in the federal Violent Crime Control and Law Enforcement Act of 1994. Among other things, this new law provides that any domestic abuse protective order issued by a state court that meets certain criteria also listed in the law, "shall be accorded full faith and credit by the court of another State...and enforced as if it were the order of the enforcing State...." Title IV, Subtitle B, Chapter 2. This provision apparently is now in effect.

This law appears to provide Massachusetts state courts with criminal jurisdiction over acts that would not otherwise be crimes in Massachusetts. For example, if a woman with a protective order issued in Rhode Island providing for not contact between her husband and her, alleged that the husband violated that order while both were here in Massachusetts, apparently that violation of the Rhode Island order must be considered a crime subject to prosecution in Massachusetts.

Obviously, this law raises a number of substantive and procedural questions and we are seeing guidance from the Office of the Attorney General regarding the meaning and implementation of the law. We will provide information as soon as it is available.

Dangerousness determinations in bail proceedings.

The new Bail Reform Act makes a number of changes in the bail statutes of the Commonwealth and will affect both prosecutorial and police practices. The law makes several changes in existing bail procedures and adds an entirely new procedure by which the Commonwealth can move, based upon an allegation of the defendant's dangerousness, to have the defendant detained until trial, if necessary to protect the public. In the alternative, the Court can order specific terms of release crafted to eliminate the danger and to ensure the defendant's appearance in court.

The statute adds a new §58A to G.L. c. 276, establishing a procedure for determining whether, and on what conditions, a defendant should be released pretrial if there is an allegation of dangerousness "to the safety of any other person or the community." This proceeding is initiated upon motion by the Commonwealth requesting either an order of detention, or of release conditions, and is available only for certain crimes.

Firearms

An amendment to c. 209A, the Abuse Prevention Act, requires that, upon issuance of an emergency or temporary c. 209A order, a court also order a defendant to surrender his gun, firearms identification card, and license to carry (hereinafter referred to as a "suspension and surrender order"). It also disqualifies a person who is the subject of a suspension and surrender order from obtaining a firearms identification card or license to carry firearms.

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[1] The venue and interstate enforcement texts were taken from a memorandum by Chief Justice Zoll, dated January 26, 1995, to all District Court Judges, Clerk-Magistrates and Chief Probation Officers. The bail and firearms texts were taken from memoranda by Attorney General Harshbarger, dated August 10, 1994 and June 24, 1994 respectively, to all Chiefs of Police. Compiled by MOVA, April 1994.

MEDICAL ASSISTANCE

•What % of medical treatment to women is the result of battering?

According the American Medical Association, battering may account for 22 to 35% of cases in which women seek care in emergency departments, 14% of women seen in ambulatory-care internal-medicine clinics, and 23% of pregnant women seeking prenatal care (Caroline Knapp, "A Plague of Murders: Open Season on Women, The Boston Phoenix, August 1992).

More than half of the victims of assaults by intimates are seriously injured. At least 25% report receiving medical care. One in 10 is treated in a hospital or emergency department. It is estimated that 35% of women who visit hospital emergency departments are there for symptoms of ongoing abuse. Unfortunately, as few as 5% of the victims of domestic violence are so identified (Antonia C. Novello, "From the Surgeon General, U.S. Public Health Service, A Medical Response to Domestic Violence," Journal of the American Medical Association, June 17, 1992, p. 3132).

Each year, more than one million women seek medical treatment for injuries deliberately inflicted upon them by their husbands, or boyfriends, injuries that their doctors only correctly identify 4% of the time as resulting from battery (Evan Stark and Anne Flitcraft, "Medical Therapy as Repression: The Case of the Battered Women," Health & Medicine, Summer/Fall 1982).

In studies of emergency room visits, 22% to 35% of women presenting with any complaint were there because of symptoms relating to abuse ("Physicians and Domestic Violence: Ethical Considerations," Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 13).

Battering is the single most frequent reason why women seek attention at hospital emergency departments and is the single major cause of injury to women, accounting for 25% of female suicide attempts and 4000 homicides per year (Howard Holtz and Kathleen Furniss, "The Health Care Providers Role in Domestic Violence," Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 47).

A National Institute of Mental Health study estimates that 21% of all women who use emergency surgical services are battered; almost one-half of all injuries presented by women to the emergency surgical service occur in the context of partner abuse; and half of all rapes to women over 30 are part of the battering syndrome. Extrapolating such figures to the United States would mean that between 1.5 million women seek medical treatment each year because of an assault by a male partner (Angela Browne, When Battered Women Kill, New York, NY: The Free Press, 1987, p. 9).

From a review of 3,676 records randomly selected from among female patients presenting with injury during a year, Stark and Stark and Flitcraft revealed that 40% of the injury episodes ever

presented by these women were either identified by victims themselves as resulting from a deliberate assault by an intimate (50% of the episodes), or could be so identified from the circumstances. Fully 19% of the women presenting to the service had a history of abusive injury (Evan Stark and Anne E. Flitcraft, "Spouse Abuse," Surgeon General's Workshop on Violence and Public Health Source Book, presented at the Surgeon General's Workshop on Violence and Public Health in Leesburg, VA, October 1985, p. 20).

In four Philadelphia hospitals, Kurz reports 17% of the emergency room population of women are abused. By contrast, the institutional incidence or the percent of women for whom an abusive episode presented during the year was the first at-risk injury, was only 4%. In other words, at present 75% of the abuse cases seen by the medical community are ongoing or unresolved (Evan Stark and Anne E. Flitcraft, "Spouse Abuse," Surgeon General's Workshop on Violence and Public Health Source Book, presented at the Surgeon General's Workshop on Violence and Public Health in Leesburg, VA, October 1985, p. 21).

Twenty-five percent of all obstetrical patients are abused women, an even higher percentage than in the emergency service (Evan Stark and Anne E. Flitcraft, "Spouse Abuse," Surgeon General's Workshop on Violence and Public Health Source Book, presented at the Surgeon General's Workshop on Violence and Public Health in Leesburg, VA, October 1985, p. 21).

Eighteen percent of the injury visits by women over 60 are prompted by abuse (Evan Stark, "Rethinking Homicide: Violence, Race, and the Politics of Gender," International Journal of Health Services, Vol. 20, No. 1, 1990, p. 21).

According to one study, domestic violence is the leading cause of injury to women, accounting for more visits to hospital emergency rooms than car crashes, muggings and rapes combined (Sarah Glazer, "Violence Against Women," CQ Researcher, Congressional Quarterly Inc., Vol. 3, No. 8, February 1993, p. 171).

One study found violence to be the second leading cause of injuries to women, and the leading cause of injuries to women ages 15 through 44 years (American Journal of Epidemiology, 1991, Vol. 134, pp. 59-68). That study, conducted for a 1-year period by the Philadelphia Injury Prevention Program, examined injuries to women resulting in emergency department visits or death (Antonia C. Novello, "From the Surgeon General, U.S. Public Health Service, A Medical Response to Domestic Violence," Journal of the American Medical Association, June 17, 1992, p. 3132).

•What % of battered women see health professionals?

One third of battered women see health professionals, often repetitively. Thus, health providers have enormous potential to identify and assist battered women (Howard Holtz and Kathleen

Furniss, "The Health Care Providers Role in Domestic Violence," Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 47).

In almost 25% of the cases of violence by an intimate, the victim received medical care. One in ten were treated in a hospital or emergency room; about 1 in 20, in a doctor's office; and about in 10, at other places. Victims of violence by nonintimate offenders were less likely than victims of intimates to receive medical attention (13% versus 23%) (Caroline Harlow, "Female Victims of Violent Crime," Bureau of Justice Statistics, Washington D.C.: U.S. Department of Justice, 1991, p. 6).

In 20% of all spousal violent crime, the victim needed or obtained medical attention: 8% from a doctor, 9% from a hospital emergency room, and 3% from overnight hospital care (Patsy A. Klaus and Michael R. Rand, Bureau of Justice Statistics, "Family Violence," Washington, DC: U.S. Department of Justice, April 1984, p. 5).

Walker (1984) studied both shelter and non-shelter women and found that after the worst incident of abuse, 45% felt they needed medical treatment, 32% sought it, and 22% actually told the doctor they were beaten (Daniel G. Saunders and Karla Rose, "Attitudes of Psychiatric and Nonpsychiatric Medical Practitioners Toward Battered Women: An Exploratory Study," unpublished, 6/24/87, p. 4).

Pahl (1979) interviewed shelter residents and found that 64% had gone to a physician. Fifty-six percent of these women said the physician was helpful (Daniel G. Saunders and Karla Rose, "Attitudes of Psychiatric and Nonpsychiatric Medical Practitioners Toward Battered Women: An Exploratory Study," unpublished, 6/24/87, p. 6).

Frequent medical visits and an extended medical history frequently reflect ongoing abuse. Almost 1 battered woman in 5 has presented at least 11 times with trauma and another 23% have presented 6-10 abusive injuries (Evan Stark and Anne E. Flitcraft, "Spouse Abuse," Surgeon General's Workshop on Violence and Public Health Source Book, presented at the Surgeon General's Workshop on Violence and Public Health in Leesburg, VA, October 1985, p. 21).

Despite the need, only about two-thirds of the women in Walker's study of over 400 battered women who needed medical treatment sought medical assistance. Doctors describe those women who do seek treatment as having a greater tolerance for the pain usually associated with their injuries (Lenore Walker, The Battered Woman Syndrome, New York, NY: Springer Publishing Company, 1984, p. 25).

In a British study of battered women seeking shelter, 20% of those who said they needed medical help did not seek it, mostly from fear of retaliation from their partners (Daniel G. Saunders and Karla Rose, "Attitudes of Psychiatric and Nonpsychiatric Medical Practitioners Toward Battered Women: An Exploratory Study," unpublished, 6/24/87, p. 4).

•What % of psychiatric patients are battered women?

Stark reported that fully 25% of the women utilizing a psychiatric emergency service have a history of domestic violence (Evan Stark and Anne Flitcraft, "Violence Among Intimates: An Epidemiological Review," Chapter 13 from Handbook of Family Violence, Ed. von Haselt, et. al., New York: Plenum Press, 1988, p. 304).

It has been estimated that 64% of hospitalized female psychiatric patients are the victims of physical abuse as adults (Richard Jacobson, "Assault Experience of 100 Psychiatric Inpatients," American Journal of Psychiatry, 1987, pp. 908-913).

Hilberman and Munson found that one-half of the 60 women referred for psychiatric consultation in a rural medical clinic were in battering relationships, but only four had been previously identified (Evan Stark and Anne Flitcraft, "Violence Among Intimates: An Epidemiological Review," Chapter 13 from Handbook of Family Violence, Ed. von Haselt, et. al., New York: Plenum Press, 1988, p. 303).

•What % of battered women seek mental health services?

Fully 20% of the abused population evidence mental health problems in addition to physical injury. More than one-third (37%) carry a diagnosis of depression or another situational disorder, and 1 abused woman in 10 suffers a psychotic break. That psychiatric problems may be the context of abuse before the first recorded abusive episode. Still, 78% of the abused women using psychiatric services after the onset of abuse have not done so previously and differences in psychoses emerge only after the onset of abuse. At the same time, battered women are also far more likely than nonbattered women to be given a pseudopsychiatric label such as hysteric, hypochondriac, crock, etc. in the evidence of mental illness. Indeed, 86% of all labels appear in the medical histories of abused women (Evan Stark and Anne Flitcraft, "Violence Among Intimates: An Epidemiological Review," Chapter 13 from Handbook of Family Violence, Ed. von Haselt, et. al., New York: Plenum Press, 1988, p. 303).

Compared with an age-matched group of nonbattered patients, battered women are more likely to carry a diagnosis of personality disorder according to DSM-II (Evan Stark and Anne Flitcraft, "Violence Among Intimates: An Epidemiological Review," Chapter 13 from Handbook of Family Violence, Ed. von Haselt, et. al., New York: Plenum Press, 1988, p. 303)

Battered women are more likely than non-battered women to present depression, anxiety, family/marital/sexual problems (19% vs. 8%) and vague medical complaints (12% vs. 3%). As a result, nontrauma medicine provides most of their care (Evan Stark and Anne Flitcraft, "Violence Among Intimates: An Epidemiological Review," Chapter 13 from Handbook of Family Violence, Ed. von Haselt, et. al., New York: Plenum Press, 1988, p. 302).

In a study of 234 women with some history of physical abuse, 227 (97%) reported some of the physical and/or psychological symptoms that could be related to stress response syndrome. 180 (76.7%) reported depression, 175 (75%) anxiety, 132 (56.5%) of the women had persistent headaches and 127 (54.5%) back,limb, and/or stomach problems (Diane Follingstad, Larry Rutledge, Barbara Berg, Elizabeth Hause, and Darlene Polek, "Factors Moderating Physical and Psychological Symptoms of Battered Women," Journal of Family Violence, Vol. 6, No. 1, 1991, p. 87).

Studies of victims of interpersonal violence show high rates of depression. The recent American Psychological Association Task Force on Depression in Women indicates that the rate of depression in American women is twice that of men, and that 37% to 40% of U.S. women are physically and/or sexually abused before age 21. Those in emergency rooms feel the number is more likely 50% or higher (Helene Kylen, "Understanding Family Violence: A Legal and Psychological Approach, Court Review, Vol. 28, No. 4, Winter 1991).

•Health workers' response to abuse

The authors found that falls were reported to be the leading cause of death overall, and that rates of falls were highest among young women 25 through 34 years of age. Such high rates of falls among women should make health care providers suspicious that some of these so-called "fall injuries" are actually sustained in beatings - after all, other studies have determined that fall injuries are highest in the elderly, not in able-bodied women (Antonia C. Novello, "From the Surgeon General, U.S. Public Health Service, A Medical Response to Domestic Violence," Journal of the American Medical Association, June 17, 1992, p. 3132).

Not surprisingly, in a survey that asked 1,000 abused women to rate the effectiveness of various professionals in addressing their abuse, health care professionals had the lowest rating, ranking behind battered women's shelters, lawyers, social service workers, police, and clergy ("Physicians and Domestic Violence: Ethical Considerations," Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 13).

In a study of emergency room records conducted by Mascia (1984), 11% of the female injury cases were detected as domestic violence. After training, the number of detected cases rose significantly (Daniel G. Saunders and Karla Rose, "Attitudes of Psychiatric and Nonpsychiatric Medical Practitioners Toward Battered Women: An Exploratory Study," unpublished, 6/24/87, p. 4).

•How many incidents of domestic violence are identified by health care workers?

One study found that in 40% of the cases in which physicians interacted with battered women in an emergency-room setting, the physicians made no response to the abuse. In another study,

physicians attributed their failure to talk to women about violence to concerns about offending patients, to fear of opening a "Pandora's box," and to a lack of time. Nationally, little information about domestic violence has been available to primary-care physicians, and although that, too, is changing, the AMA itself did not issue guidelines on the issue for physicians until this spring (Caroline Knapp, "A Plague of Murders: Open Season on Women, The Boston Phoenix, August 1992).

In one study, emergency department physicians identified one in 35 of their female patients as battered, while a review of the medical charts indicated that, in fact, one in four were likely to have been battered ("Physicians and Domestic Violence: Ethical Considerations," Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 13).

Another study found that physicians' discharge diagnoses correctly indicated spouse abuse in only 8% of the cases in which explicit information about abuse (e.g. patient statements about abuse) or very strong indications of abuse were recorded in the medical chart ("Physicians and Domestic Violence: Ethical Considerations," Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 13).

Using current diagnostic and identification procedures, physicians identify approximately 1 abuse victim in 25, and mental health practitioners, perhaps as few as 1 in 30. In addition both record reviews and direct observation of clinician-victim encounters indicate that health providers are more likely to refer battered than nonbattered women to psychiatry, to apply either traditional female labels (such as "hysteric") or other denigrating stigmata ("crock"), to prescribe tranquilizers and pain medication, and to institutionalize them in state mental hospitals (Evan Stark and Anne E. Flitcraft, "Spouse Abuse," Surgeon General's Workshop on Violence and Public Health Source Book, presented at the Surgeon General's Workshop on Violence and Public Health in Leesburg, VA, October 1985, p. 17).

One out of every 5 women treated for serious injuries in hospitals is battered, while only 1 out of 25 is detected by Emergency Department staff (Anwar & McLeer, reprinted by National Woman Abuse Prevention Project, "Some Commonly Asked Questions about Domestic Violence," Domestic Violence Fact Sheet).

In the study by Kurz (see above), the response of the medical staff was observed. In approximately 10% of the cases, the staff displayed a positive response which included speaking to the woman, assessing her safety, and trying to help her. In 47% of the instances there was a partial response: they noted her battering and did one of the positive responses. Thus in 43% of the instances the staff did nothing (Demie Kurz, "Interventions with Battered Women in Health Care Settings," Violence and Victims, Vol. 5, No. 4, 1990, pp. 249-250).

The 1991 study of 362 members of the American Association of Marriage and Family were questioned about their responses to two cases depicting family violence. The results were unexpected. Fully 40% of practitioners missed very obvious evidence of extreme domestic

violence. Among those identifying the conflict, the severity was minimized: 91% of those that addressed the conflict considered it mild or moderate. Fully 55% WOULD NOT intervene if the violence required any immediate action. Fourteen percent would work on the couple's communication style! (Marsali Hansen, Michele Harway, Nancyann Cervantes, "Therapists' Perceptions of Severity in Cases of Family Violence," Violence and Victims, Vol. 6, No. 3, 1991).

In the survey of 50 British physicians conducted by Borkowski and his associates (1983), one-half of the physicians said they would only provide medical help when confronted with a case of battering. Forty percent would probe tactfully if abuse was suspected (Daniel G. Saunders and Karla Rose, "Attitudes of Psychiatric and Nonpsychiatric Medical Practitioners Toward Battered Women: An Exploratory Study," unpublished, 6/24/87, pp. 5-6).

Stark and Stark et. al. reviewed the complete medical records of 3,676 women randomly selected from among female patients presenting with injury to a major metropolitan emergency room during a single year. Although a mere 1% (n=73) of the 5,040 injury episodes ever presented by these women were identified by clinical staff as due to abuse or battering, a review of the adult trauma history revealed that fully 40% of the episodes were either identified by victims as resulting from a deliberate assault by an intimate other, or that this could be surmised from the circumstances and that 19% of the women had a history of abuse. This compares to 11% presenting with injuries resulting from auto accidents, usually thought to be the most common source of serious injuries. Clinicians identified only one battered women in 35, and even these few diagnoses had little therapeutic relevance. By contrast with the institutional prevalence of 19%, the number of old and new cases, just 4% of the women presented during the year with their first at-risk episode, what might be termed the institutional incidence. In other words, 75% to 80% of the battering cases seen by medicine are ongoing (Evan Stark and Anne E. Flitcraft, "Violence Among Intimates: An Epidemiological Review," Chapter 13 from Handbook of Family Violence, Ed. Von Haselt, et. al., New York: Plenum Press, 1988, p. 301).

In a study of four emergency rooms in a major city there was a varying response to battered women by health care officials. Two of the hospitals were community hospitals, one treated predominantly black patients, and the other had patients who were predominantly white. One other hospital was a teaching hospital and the last served both functions. Of the 104 cases of battered women, 61% (73) of the women reacted similarly to the non-battered women, cooperating and answering questions asked by the staff. The other 39% (41) had discrediting attributes: 2/3 had alcohol on the breath or had taken drugs and 1/3 were evasive (Demie Kurz, "Interventions with Battered Women in Health Care Settings," Violence and Victims, Vol. 5, No. 4, 1990, p. 248).

FINAL REPORT

of the

Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse

State of Iowa

Submitted to the Supreme Court of Iowa

August 1994

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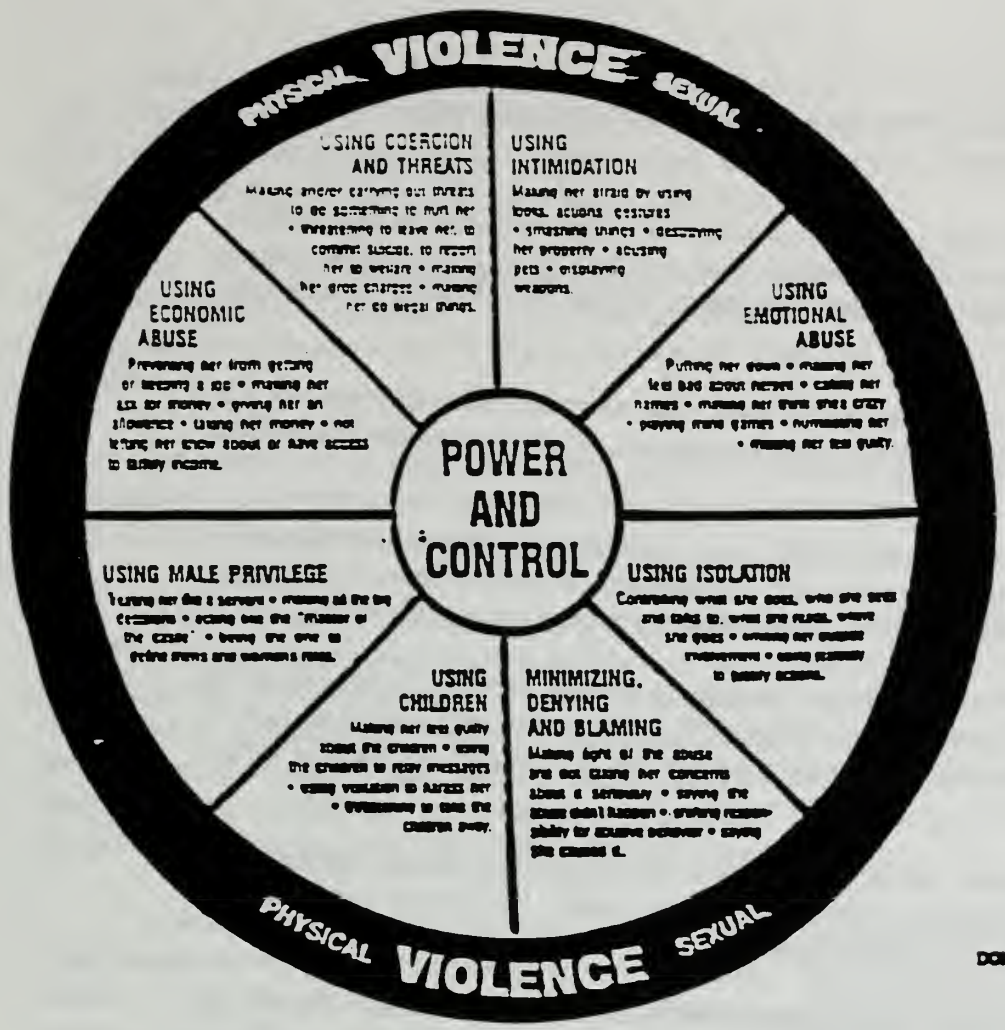

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B. The Dynamics of Domestic Violence

1. Power and Control

The "power and control" theory of domestic abuse was created by Ellen Pence of Duluth, Minnesota to describe the dynamics of an abusive and/or violent relationship. The premise is simple. People use violence to maintain power and control over others. The use of violence is reinforced when it works every time it is used.

Traditional theories of the causes of domestic abuse are based on personal characteristics and life experiences like stress, unemployment, poverty, substance abuse, past child abuse, and depression. Theories centered on these characteristics fall short of explaining the phenomenon that the majority of persons with those problems do not batter their intimate partner or children. Observation has also shown that the amelioration of life problems like substance abuse, stress, and unemployment does not effectively stop domestic abuse in a relationship.

The "power and control" model, widely adopted by those who work with both perpetrators and survivors of domestic abuse, challenges all the other explanations for violence in a relationship. The model contends that the use of violence is always a choice, and that in our society it is a choice that can be made in order to meet one's needs with little or no consequence.

A variety of techniques are used in a deliberate and systematic manner to gain power and control:

Physical violence: The abuser uses physical violence to achieve power and to maintain control. Women know they are in the most imminent danger when they try to leave a relationship. Abusers use physical violence to keep the partner from leaving and use the following abusive techniques to maintain control.

Isolation: The abuser decides what the partner does, where she goes, and with whom she has contact. He may limit or deny her access to a car or telephone. She loses her relationships with friends and family.

Intimidation: The abuser uses threatening looks, voice, gestures and actions to keep the partner in constant fear. He may punch holes in the wall, damage valued objects, or hurt pets, to signify what he could do to her. A constant threat that violence can happen again at any time.

Threats: The abuser threatens to commit suicide, take the children, hurt a pet, hurt or lie to her family or friends, or seriously injure her. Threats effectively control the partner because the perpetrator usually has the means to carry them out and may have carried out some of threats during the relationship.

Using the children: The abuser may threaten or use violence against the children, undermine the partner's parenting, or convince the children she's a bad mother. He will use visitation as an opportunity to harass, scare or continue to batter her.

Economics: The abuser may control all of the economic resources in the family. He will take any money she earns if he allows her to work outside the home, give her an inadequate "allowance" to meet the family needs, and force her to ask for money for basics like food and household items.

Male privilege: The abuser makes all major decisions in the relationship and family. He may treat the partner like a servant and force her to wait on him at all hours.

Sexual: The abuser may make his partner engage in sexual practices she is uncomfortable with or force her to have sex against her will. He may regularly force her to engage in sex after a fight or when he's intoxicated. He may sexually abuse the children and blame or threaten her to keep the abuse a secret.

2. Sexual Abuse

Battering can often involve a substantial amount of sexual abuse, including marital rape and sexual mutilation. Marital rape is rarely discussed with others or reported to law enforcement authorities, and of those reported a few are prosecuted. It is common for battered women to have sexual intercourse with their husbands to avoid being battered. While this type of coercive sexual activity would be spousal sexual assault as defined by the Model Act, many women may not consider it to be so and would fear disbelief if they reported it.[1]

Marital rape has been reported in relationships in which no other forms of physical abuse occur. However, it seems to be most frequent as a form of aggression in relationships in which other violent behaviors are ongoing.[2] Sexual assault is reported by 33 percent to 46 percent of women victims who are physically assaulted by their partners.[3]

One out of ten wives has been sexually assaulted at least once by her husband and between 50 percent to 87 percent of women who have experienced rape in an intimate relationship, such as marriage, indicate that they had been sexually assaulted at least twenty times by their partners.[4]

The frequency and impact of marital rape is devastating and far reaching. It has been estimated that 30 percent of all rape victims are battered women and among rape victims over 30 years of age, 58 percent are battered women.[5]

Sexual violence is also frequent in dating relationships. It has been estimated that over 50 percent of rapes are perpetrated against adolescents, with the vast majority taking place between individuals who are acquaintances or in a dating situation.[6] Christine Courtois (1988) tells us that these young women are victims of "an endemic societal manifestation of the power imbalance between the sexes" where "men are conditioned into roles of power and domination . . . and females . . . are conditioned to be passive and dependent." It is clear by overwhelming statistics we live in a culture that condones sexual violence toward women.

In summary, men batter women because it gets them what they want or need and keeps control over their partner. Whether the underlying emotion is frustration, jealousy, anxiety, or low self-esteem battering men use violence to get or regain power and control.

"...men batter women because it gets them what they want or need and keeps control over their partner."

3. Why Women Don't Leave

The fear that battered women feel cannot be minimized. A non-abused person cannot imagine waking up and going to sleep afraid every day. Each decision is a potential life and death determination. Any matter, the way she cooks, who is on the phone, what she wears, or how the baby cries can be the "reason" that leaves her children motherless.

At the point where a woman realizes the violence is getting more frequent and more severe she will often experience more fear than during any single beating. It is often at this point that she also becomes aware of the danger in leaving.

Leaving is often a process. It involves testing the abusers responses and gathering resources to survive outside the relationship. A woman cannot assume the violence will end when she leaves. Many abusive men stalk and harass their former partners for years. Many kill them. Women are at the greatest risk of injury or murder at the time they end a relationship.

Leaving an abusive relationship is an act of bravery that most in the justice system take for granted.

Leaving an abusive relationship is an act of bravery that most in the justice system take for granted. Victims of domestic abuse are at great risk for intimidation and retaliation if they turn to the justice system for help. They have suffered numerous attacks by the abuser in the past, experienced terrifying threats against themselves and their families, may have been held hostage in their own homes and, better than anyone, understand the terrifying potential of the abuser to hurt them.

We must understand that a common characteristic of abusers is the difference between their public and private face. What you see in public is not always what the victim is dealing with at home. Without effective intervention, violence grows more severe and frequent until, as in many families each year, someone dies.

C. Effect of Domestic Violence on Special Populations

1. Rural Women

Batterers commonly isolate their victims to prevent detection of their crimes and their victims' escape from the terror. This method of abuse is even more intensified by the distances between farms and towns in rural Iowa.

A multitude of factors heighten the danger faced by rural women in abusive relationships.[7] For example, public transportation is nonexistent. Batterers often deny their partner access to family vehicles or do not allow her to get a driver's licence, thereby making it virtually impossible for her to leave on her own. Graveled roads often become impassible during Iowa's snowy winters and muddy springs, adding to the desperation of living with abuse.

Phone service is not always available and even when it is, emergency response may be a long time in arriving. Moreover, those who respond may be a volunteer force of emergency medical technicians comprised of neighbors and acquaintances to whom she is ashamed to reveal the abuse. In fact, the victim often risks the abuser finding out about any efforts to seek help in the fishbowl of small town life.

Moreover, the seasonal nature of farm work often leaves men with months of unemployment, resulting in women being trapped in the house with an abusive partner for long stretches of time. To make matters worse, hunting weapons are common in rural homes, as are everyday tools with deadly possibilities.[8] In addition, a woman living in the country may not see a neighbor for days on end; by then gashes will heal, bruises will fade, and no signs of abuse will be detected. Even if injuries are evident, they can easily be attributed to working with farm equipment and livestock. Emotional ties to the land and animals, economic ties to the farming business, and the distant prospect of finding safety in a "big city," all add to the difficulty in pulling up stakes.

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Once the decision is made to seek protection, it is clear rural areas of the state do not offer the same level of services available in urban areas. While all classes of rural litigants are affected by this limited access, domestic abuse petitioners face a greater problem because of the emergency need for protective orders. Traveling to another county for an order is often not a reasonable option. When victims do have a car, they may not have gas money or may risk further abuse for an "unexplained" absence of two or three hours.[9] The Task Force addresses these rural access problems in Part IV.B. with recommendations for revising the civil process.

2. Teenaged and Dating Women

Surveys show that abuse in dating relationships is prevalent; about one in three females will experience violence at the hands of their boyfriends before they reach adulthood.[10] A resource center in Des Moines reported having contact with more than 500 young women in a recent six-month period: 60 percent of them were involved in an ongoing abusive relationship and virtually all of them had experienced violence in a dating relationship.[11]

Surveys show that abuse in dating relationships is prevalent; about one in three females will experience violence at the hands of their boyfriends before they reach adulthood.

One of the reasons lawmakers are slow to enact safeguards for the victims of dating violence is the difficulty in defining "dating." Some scholars have defined dating partners as "any romantically involved, unmarried couple;" others emphasize that dating is the process of "mate selection."[12] Other jurisdictions have extended their domestic violence protections to people who have a "significant relationship," apparently applying to "amorous and/or sexually intimate relationships."[13] The California Code extends the definition of domestic abuse to those in "a dating, courtship, or engagement relationship."

On the one hand, dating violence is remarkably similar to marital violence.[14] Victims dating their batterers experience the same patterns of power and control as their counterparts in abusive marriages or cohabitations, and clearly dating violence can be just as lethal.[15] This point was poignantly emphasized by Rebecca Bettin, a counselor at the Young Women's Resource Center in Des Moines, in her testimony to a 1992 Iowa legislative hearing on dating violence:

> *The way that Chapter 236 is currently written, we are led to believe that violence — thus power and control — only happens in relationships where people are married or living together. Are we then so naive that we believe that people wait until they are married or move in together before they start showing patterns of power and control and start being abusive?*

Are we ... so naive that we believe that people wait until they are married or move in together before they start showing patterns of power and control and start being abusive?

On the other hand, dating violence differs from what has been more traditionally considered domestic abuse in at least two significant ways. First, dating relationships may lack the financial, property and custody entanglements common to people who are married, live together or have a child in common. People in a dating relationship typically have no legal connections that would distinguish them from persons in a non-dating relationship. This suggests that the procedures of Chapter 236 may not be one-size-fits-all and may need to be tailored to the particular needs of people who seek relief from violence in a dating relationship.

Second, while Iowans are beginning to recognize domestic violence as a serious social problem, many people maintain an alarmingly casual attitude toward dating violence. Researchers report "an apparent lack of social stigma attached to the behavior by participants."[16] Young men admit to abusing their young partners in order to intimidate them into giving into their demands, while violent husbands more commonly blame their aggression on reasons out of their control, such as drinking, drugs, anger, and stress.[17] Vicki Crompton, whose teenage daughter Jenny was killed by a former boyfriend in Bettendorf, Iowa, recounts how Jenny's friends testified at the murder trial that "it happens all the time at school, boyfriends hitting girlfriends, so they didn't think anything of it."[18]

Mrs. Crompton reports that schools in her community now include curricula on the dangers of abusive dating relations.[19] Most high schools may not be so enlightened. Case studies have shown that principals and guidance counselors tend to minimize verbal and physical abuse between students who are dating.[20] Researchers stress the prevalence of this problem along with the indifferent attitude toward its occurrence, point to a need for a massive education effort.[21] For further discussion of the need for prevention, see Part V, which includes Task Force recommendations involving educators and other community leaders. For the Task Force's recommendations concerning dating violence and juveniles, see Part IV.B.

3. Older Women

Iowa's population trends suggest that victims of spouse abuse in this state frequently may be older women.[22] Although research has taught us that domestic abuse is common to women of all age groups, battered older women have been virtually invisible in the battered women's movement.[23] Despite the attention elder abuse received in the late 1970's and a random sample survey on elder abuse that suggested the majority of the projected 701,000 to 1,093,560 abused elders in the United States were victims of spouse abuse, the difficulties and barriers suffered by the abused older woman and the commonality shared with the younger battered woman has rarely been discussed.[24] Rather, elder abuse has been much more frequently compared to child abuse than spouse abuse.[25]

"... elder abuse has been much more frequently compared to child abuse than spouse abuse."

These trends have led to making abused older women invisible victims and to viewing them as childlike victims of family violence. Both tendencies have serious ramifications in terms of how older battered women will view themselves and their situations. The labeling of violence affects the victim's evaluation of specific episodes and may be a critical prerequisite to help-seeking.[26] Additionally, the way in which policy makers and practitio-

Prisons across this country are filled with battered women. . . .

ners label a problem influences the types of interventions that are planned for, and utilized with, victims.[27]

It appears that the only significant difference between the young battered woman and the older battered woman is how communities intervene. In spite of similarities in the dynamics of family violence across all ages, and evidence that abused elders are not significantly more dependent or physically limited than non-abused , services to older abused women have taken the form of medical treatment and are, for the most part, protective in nature. While some women may be in need of such services, the general response to elder abuse has been a paternalistic one which fails to recognize that most elderly are competent to make their own decisions.[28]

4. Battered Women in Prison

Prisons across this country are filled with battered women, many serving time for defending themselves against their abusers or because they were coerced into some criminal activity by their abusers. Others are incarcerated because they "failed to protect" their children from their abuser's violence. The vast majority of incarcerated women were abused as children and/or as adults. Battered women defendants have the least extensive criminal records of any offenders, yet comprise a surprisingly high percentage of incarcerated women.

The vast majority were abused as children and/or as adults. Battered women defendants have the least extensive criminal records of any offenders, yet comprise a surprisingly high percentage of incarcerated women.

Studies show that only 20 percent of battered women who are charged with killing their partner are acquitted; the rest are convicted, or they plea-bargain to avoid a trial.[29] For many offenses women and men seem to receive the same sentences, but for offenses traditionally considered to be "masculine"—such as armed robbery and felony murder—women tend to receive heavier sentences than men.[30]

The extremely long sentences women serve raise serious questions about the fairness of our criminal justice system. Women testifying before the Committee on Domestic Violence and Incarcerated Women averaged sentences of 15 years.[31]

Ewing reported that almost half (47 percent) of the convicted women in his study received sentences of over 10 years and 20 percent of the women were sentenced to life in prison.[32] Abusive men who kill their partners serve an average of two-to-six year terms. Women who kill their partners, usually in self-defense, serve an average of fifteen years.[33]

Abusive men who kill their partners serve an average of two-to-six year terms. Women who kill their partners, usually in self-defense, serve an average of fifteen years.

Although one-third of the women in one study were women of color, they only account for 25 percent of those who were found not guilty. Black women made up 21 percent of the sample but only 19 percent of those who were acquitted. Thus, a Black battered woman who kills her partner in self defense is two times more likely to be convicted and go to prison for a longer time than her white Anglo counterpart.[34]

5. Same Sex Battering

Lesbians experience physical and psychological violence not only because they are female, but also because of their affectional orientation. Battered lesbians have few resources available -- frequently encountering homophobia from service providers and denial within the lesbian community. Lesbians who are battered are the most under-served population of battered women in the nation.

Two myths appear to justify the lack of attention and service provision to lesbian battered women: (1) Lesbian abuse is usually mutual and, therefore, both parties consent to the violence; and (2) Lesbian abuse is never as violent as man-to-woman abuse. The fact is that lesbian abuse is almost never mutual and can be every bit as lethal as when men batter women.[35]

It is important to acknowledge that violence also exists in gay male relationships. Domestic violence in gay men's relationships is the third largest health problem for gay men in America today.[36] It is estimated that violence is as prevalent in gay-lesbian relationships as in heterosexual relationships.

> **...lesbian abuse is almost never mutual and can be every bit as lethal as when men batter women.**

> **Domestic violence in gay men's relationships is the third largest health problem for gay men in America today.**

6. Women of Color

There is inadequate information available about violence against women of color. Criminal justice studies about race generally focus on the defendant. Statistics that reflect the race or ethnicity of the victims of crime are rarely kept.

The National Crime Victim Survey conducted by the U.S. Department of Justice shows that Hispanic, African-American, and white women experience equivalent rates of violence committed by intimates. The NCVS information is collected from a continuous nationally representative sample of households and includes information on crimes not reported to law enforcement.

From January 1, 1990 through December 31, 1993, the Crime Victim Compensation Program in the Iowa Attorney General's Office received 674 applications for assistance from women who were victims of domestic abuse. Of those applications, 89 percent were from Caucasian women, 7 percent were from African-American women, 2 percent were from Latino women, 1 percent were from Asian women, .7 percent were from American Indian women, and .4% were unidentified.

These raw statistics correspond generally to the racial makeup of the Iowa population. The figures corroborate the data collected for the National Crime Victim Survey. Domestic abuse is not a racially defined crime; it occurs at the same rate in minority populations as in the majority population.

Iowa's population of minority and people of color is small. Minority citizens may have slight trust in the government of the majority to protect and serve them. Culture and language should never be barriers to justice. It is critical that courts and communities strive to assure culturally aware access and services to Iowa's citizens of color.

7. Immigrant Battered Women

On March 30, 1989, a Brooklyn Supreme Court Judge sentenced a batterer to five years probation for second-degree manslaughter in the hammer-beating death of his wife. Relying on the use of a "cultural defense," his lawyer successfully argued that traditional Chinese values accounted for his extreme reaction to his wife's alleged infidelity. The ruling sent shock waves through the Asian community and a simple, but clear message: the law will not protect Asian women from domestic violence, even unto death.[37]

This example may suggest that women's lives, especially third world women's lives, are not valued. Among Asian, African-American, American Indian, and Latina victims of violence, there are similarities based on common experiences with racism and poverty. But given the different cultures, tribes, languages, and histories, there are also some marked distinctions.

The rigors of immigrant life put battered women from many of these communities in a particularly vulnerable position. Language barriers make it difficult for the immigrant battered woman to communicate with the police, city agencies, hospitals, and courts. These institutions are not structured to accommodate language and cultural differences, a reality which alienates and isolates many immigrant women.

For the undocumented battered woman, the isolation is even more severe. Thousands of Latina and Asian women have immigrated, many of them sponsored by husbands who came years before them to find work. These women, together with their husbands, must file for permanent residency after having lived together for 21 months.

Batterers invariably use the threat of deportation as another weapon in the abuse of their wives. Lacking English skills and money, and frightened by the police and hospitals, an immigrant woman is unlikely to press charges against a husband who holds the key to her citizenship. Women with children are fearful that they may lose their children if deported.

8. Battered Women with Disabilities

Few shelters and services are accessible to women with disabilities, or have staff educated and sensitive to their needs. Women with disabilities are victimized by violence as well as by an often unresponsive "helping" system.

Few shelters and services are accessible to women with disabilities, or have staff educated and sensitive to their needs.

Many of these women find themselves isolated by their disability and often further isolated by their own community who does not trust the non-disabled public to intervene effectively. This puts battered women with disabilities at increased risk. The perpetrator may also have a greater ability to control the victim's access to outside information and may be able to physically prevent her escape.

Outreach efforts are beginning in this area by service providers. For example, brochures printed in braille are now available for battered women who are blind. However, efforts to reach battered women with disabilities have been slow and are scarce in Iowa.

9. Prostitution

Women attempting to escape prostitution have the same needs as "traditionally battered women." Most will need shelter for themselves and their children. The great majority will have fled from brutal pimps with only the clothes on their backs. Like traditional battered wives, few of these women will have viable job skills. A great many have never completed high school. Not unlike their "housewife" counterparts, most of these women have had little experience controlling and managing their own finances.

All prostitutes seeking services will have experienced some combination of rape, battery and sexual abuse. In addition, the vast majority of women used in prostitution have been sexually abused as children. These are not new issues for service providers and victim advocates. Adequate resources may be available to empower women in overcoming the traumatizing effects of these abuses. Such resources are not always available to prostitutes seeking assistance. Because of their controversial nature, groups providing services for prostitutes and education about pornography struggle to stay alive.

10. Pregnant Battered Women

The March of Dimes reports that between 25 percent and 45 percent of all battered women are abused during pregnancy, thereby increasing the risk of birth defects and low birth-weight babies. Mere notification of pregnancy is frequently a flash point for battering and violence within the family. The number of battering incidents is high during pregnancy and often the worst abuse can be associated with pregnancy.[33]

...between 25-45 percent of all battered women are abused during pregnancy, thereby increasing the risk of birth defects and low birth-weight babies.

Dr. Lenore Walker and others have frequently noted the propensity of battering husbands to punch and kick their pregnant partners in the stomach, with resultant miscarriages and injuries to their reproductive organs. The Stacey and Shupe study revealed 42 percent of the women reported being beaten while pregnant.[39]

Although family pressures, including the number of children, are frequently cited risk factors for battering, battered women, on average, have no more children than non-battered women. Still, they are pregnant nearly twice as often, significantly more likely to have a miscarriage or abortion, and more likely to be pregnant at the time of their injury, again highlighting the prevalence of sexual assault.[40]

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[1]Planned Parenthood v Casey, ___ US ___, 112 S.Ct. 2791, 120 L.Ed.2d 674, 723 (1992).

[2]Angela Browne, Remarks by William Scott for the Report of the Council on Scientific Affairs, 1991

[3]Irene Hanson Frieze and Angela Browne, "Violence in Marriage," Family Violence: Crime and Justice.

[4]Finkelhor, David, and Yllo, Kersti, License to Rape: Sexual Abuse of Wives, Free Press, p. 22 (1985).

[5]Evan Stark and Anne Flitcraft. Spouse Abuse, Surgeon General's Workshop on Violence and Public Health Source Book presented at the Surgeon General's Workshop on Violence and Public Health, Leesburg, VA, October, 1985, p. 16.

[6]Levy, Barbara, Dating Violence: Young Women in Danger (1991).

[7]"Rural Battered Women: Isolation," Networker, 2d quarter, 1989 Networker (Committee Against Domestic Abuse, Mankato, Minn.).

[8]Testimony of Nancy Becker, victim advocate in Atlantic, December 15, 1993, at 128 ("With rural communities we have shotguns, we have rifles very readily accessible. Many times they are not taken away at the time of arrest because the abuser says he's a hunter and he needs his guns to be able to hunt....") See also Part IV.A., including recommendation on seizure of firearms.

[9]Survey responses from clerks of court.

[10]S. Kuehl, Legal Remedies for Teen Dating Violence, in B. Levy, Dating Violence: Young Women in Danger at 73 (1991) [hereinafter B. Levy].

[11]Testimony at Iowa House of Representatives Public Hearing on Dating Violence by Rebecca Bettin, counselor at the Young Women's Resource Center, March 31, 1992.

[12]D. Sugarman & G. Hotaling, Dating Violence: A Review of Contextual and Risk Factors, in B. Levy.

[13]People v. Ballard, 249 Cal.Rptr. 806 (1988) (rejecting defendant's vagueness challenge to domestic abuse statute because the conduct clearly amounted to cohabitation).

[14]L. Rouse, R. Breen & M. Howell, Abuse in Intimate Relationships: A Comparison of Married and Dating College Students, 3 The Journal of Interpersonal Violence at 415 (Dec. 1988).

[15]Kessner, Domination and Control (1988), in B. Levy, at 75 (1991).

[16]D. Sugarman & G. Hotaling, Dating Violence: A Review of Contextual and Risk Factors, in B. Levy.

[17]Id. at 116-17.

[18]V. Crompton, A Parent's Story, in B. Levy.

[19]Id. at 26.

[20]L. Prato & R. Braham, Coordinating a Community Response to Teen Dating Violence, in B. Levy.

[21]D. Sugarman & G. Hotaling, in B. Levy.

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[25] Id.

[26]Sedlak, A.J., The effects of personal experiences with couple violence on calling it battering and allocating blame in G.T. Hotaling (Ed.) Coping with Family Violence (1988).

[27]Abused Elders or Older Battered Women? Report on the AARP Forum. October 1992.

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[29]Sue Osthoff, Director of National Clearinghouse for the Defense of Battered Women. Violence Against Women: Till Death Do Us Part.

[30]Ann Jones, Women Who Kill, New York, NY: Fawcett Crest, 1980, p.9.

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[32]Charles P. Ewing, Battered Women Who Kill: Psychological Self-Defense as Legal Justification, Lexington, MA: Lexington Books, 1987.

[33]"National Estimates & Facts About Domestic Violence," NCADV Voice, Winter 1989, p.12.

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[40]Evan Stark and Anne Flitcraft, Spouse Abuse, Surgeon General's Workshop on Violence and Public Health Source Book presented at the Surgeon General's Workshop on Violence and Pubic Health, Leesburg, VA, October, 1985, p. 16.

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Workshop B

Federal Crime Bills:
Their Impact on Victims in Massachusetts

Federal Crime Bills: Their Impact on Victims in Massachusetts

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U.S. Department of Justice

Fact Sheet

Violent Crime Control and Law Enforcement Act of 1994

The Violent Crime Control and Law Enforcement Act of 1994 represents the bi-partisan product of six years of hard work. It is the largest crime bill in the history of the country and will provide for 100,000 new police officers, $9.7 billion in funding for prisons and $6.1 billion in funding for prevention programs which were designed with significant input from experienced police officers. The Act also significantly expands the government's ability to deal with problems caused by criminal aliens. The Crime Bill provides $2.6 billion in additional funding for the FBI, DEA, INS, United States Attorneys, Treasury Department and other Justice Department components, as well as the Federal courts. Some of the most significant provisions of the bill are summarized below:

Substantive Criminal Provisions

Assault Weapons
Bans the manufacture of 19 military-style assault weapons, assault weapons with specific combat features, "copy-cat" models, and certain high-capacity ammunition magazines of more than ten rounds.

Death Penalty
Expands the Federal death penalty to cover about 60 offenses, including terrorist homicides, murder of a Federal law enforcement officer, large-scale drug trafficking, drive-by-shootings resulting in death and carjackings resulting in death.

Domestic Abusers and Firearms
Prohibits firearms sales to and possession by persons subject to family violence restraining orders.

Firearms Licensing
Strengthens Federal licensing standards for firearms dealers.

Fraud
Creates new insurance and telemarketing fraud categories. Expands Federal jurisdiction to cases that do not involve the use of the mail or telephone wire to commit a fraud. Provides special sentencing enhancements for fraud crimes committed against the elderly.

Gang Crimes
Provides new and stiffer penalties for violent and drug trafficking crimes committed by gang members.

Immigration
Provides for enhanced penalties for alien smuggling, illegal reentry after deportation and other immigration-related crimes. (See Part II).

Juveniles
Authorizes adult prosecution of those 13 and older charged with certain serious violent crimes. Prohibits the sale or transfer of a firearm to or possession of certain firearms by juveniles. Triples the maximum penalties for using children to distribute drugs in or near a protected zone, i.e., schools, playgrounds, video arcades and youth centers.

Registration of Sexually Violent Offenders
Requires states to enact statutes or regulations which require those determined to be sexually violent predators or who are convicted of sexually violent offenses to register with appropriate state law enforcement agencies for ten years after release from prison. Requires state prison officials to notify appropriate agencies of the release of such individuals. Requires states to criminally punish those who fail to register. States which fail to establish registration systems may have Federal grant money reduced.

Repeat Sex Offenders
Doubles the maximum term of imprisonment for repeat sex offenders convicted of Federal sex crimes.

Three Strikes
Mandatory life imprisonment without possibility of parole for Federal offenders with three or more convictions for serious violent felonies or drug trafficking crimes.

Victims of Crime
Allows victims of Federal violent and sex crimes to speak at the sentencing of their assailants. Strengthens requirements for sex offenders and child molesters to pay restitution to their victims. Improves the Federal Crime Victims' Fund and the victim-related programs it supports.

Other
Creates new crimes or enhances penalties for: drive-by-shootings, use of semi-automatic weapons, sex offenses, crimes against the elderly, interstate firearms trafficking, firearms theft and smuggling, arson, hate crimes and interstate domestic violence.

Immigration Initiatives

The Crime Bill contains specialized enforcement provisions respecting immigration and criminal aliens. Those programs are highlighted here:

- $1.2 billion for border control, criminal alien deportations, asylum reform and a criminal alien tracking center.
- $1.8 billion to reimburse states for incarceration of illegal criminal aliens. (See State Criminal Alien Assistance Program (SCAAP) Grants in Section III).
- Enhanced penalties for failure to depart the United States after a deportation order or reentry after deportation.
- Expedited deportation for aliens who are not lawful permanent residents and who are convicted of aggravated felonies.
- Statutory authority for abused spouses and spouses with abused children to petition for permanent residency or suspension of deportation.

Grant Programs For 1995

Most of these programs are authorized for six years beginning October 1, 1994. Some are formula grants, awarded to states or localities based on population, crime rate or some other combination of factors. Many are competitive grants. All grants will require an application process and are administered by the Department of Justice unless otherwise noted. As always, all funds for the years 1996–2000 are subject to appropriation by the Congress.

Brady Implementation
Competitive grant program for states to upgrade criminal history records keeping so as to permit compliance with the Brady Act. $100 million appropriated in 1995. In addition, the Brady Act authorizes $100 million for FY 1996. $50 million of this amount is authorized to be expended from the Violent Crime Control Act Trust Fund.

Byrne Grants
Formula grant program for states for use in more than 20 law enforcement purposes, including state and local drug task force efforts. $450 million appropriated for the formula grant program in 1995. $550 million authorized in 1996–2000 for both formula and discretionary.

Community Policing
Competitive grant program (COPS Program) to put 100,000 police officers on the streets in community policing programs. $1.3 billion available in 1995. $7.5 billion authorized in 1996–2000.

Community Schools
Formula grant program administered by the Department of Health and Human Services for supervised after-school, weekend, and summer programs for at-risk youth. Funds expected to be available in 1995. $567 million authorized in 1995–2000.

Correctional Facilities/Boot Camps
Formula and competitive grant program for state corrections agencies to build and operate correctional facilities, including boot camps and other alternatives to incarceration, to insure that additional space will be available to put—and keep—violent offenders incarcerated. Fifty percent of money to be set aside for those states which adopt truth-in-sentencing laws (violent offenders must serve at least 85% of their sentence) or which meet other conditions. $24.5 million in competitive funds available for boot camps in 1995. $7.9 billion authorized in 1996–2000.

Drug Courts
Competitive grant program to support state and local drug courts which provide supervision and specialized services to offenders with rehabilitation potential. $29 million available in 1995. $971 million authorized in 1996–2000.

Hotline
Competitive grant program administered by the Department of Health and Human Services to establish a National Domestic Violence Hotline. $1 million authorized in 1995. $2 million authorized in 1996–2000.

Prevention Council
Provides funding for the President's Prevention Council to coordinate new and existing crime prevention programs. $1.5 million available in 1995. $88.5 million authorized for competitive grants in 1996–2000.

SCAAP Grants
Formula grant program to reimburse states for the cost of incarcerating criminal aliens. $130 million available in 1995. $1.67 billion authorized in 1996–2000.

Violence Against Women
Formula grant program to support police and prosecutor efforts and victims services in cases involving sexual violence or domestic abuse, and for other programs which strengthen enforcement and provide services to victims in such cases. $26 million available in 1995. $774 million for formula grants and over $200 million for competitive grants authorized in 1996–2000.

Grant Programs For 1996–2000

All programs available in 1995 are continued. All programs are administered by the Department of Justice unless otherwise noted. Funding for 1996–2000 is, as always, subject to appropriation by the Congress.

Battered Women's Shelters
Competitive grant program administered by the Department of Health and Human Services for battered women's shelters and other domestic violence prevention activities. $325 million authorized.

Capital Improvements to Prevent Crime in Public Parks
Competitive grant program administered by the Department of Interior for states and localities for crime prevention programs in national and public parks. $15 million authorized.

Community Economic Partnership
Competitive program administered by the Department of Health and Human Services for lines of credit to community development corporations to stimulate business and employment opportunities for low-income, unemployed and underemployed individuals. $270 million authorized.

Crime Prevention Block Grants
$377 million authorized for a new Local Crime Prevention Block Grant program to be distributed to local governments to be used as local needs dictates. Authorized programs include: anti-gang programs, sports leagues, boys and girls clubs, partnerships (triads) between the elderly and law enforcement, police partnerships for children and youth skills programs.

Delinquent and At-Risk-Youth
Competitive grant program for public or private non-profit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who have dropped out of school, have come into contact with the juvenile justice system or are at risk of either. $36 million authorized.

DNA Analysis
Competitive grant program for states and localities to develop or improve DNA identification capabilities. $40 million authorized. An additional $25 million is authorized to the FBI for DNA identification programs.

Drug Treatment
$383 million for prison drug treatment programs, including $270 million in formula grants for states.

Education and Prevention to Reduce Sexual Assaults Against Women
Competitive grant program administered by the Department of Health and Human Services to fund rape prevention and education programs in the form of educational seminars, hotlines, training programs for professionals and the preparation of informational materials. $205 million authorized.

Family and Community Endeavor Schools
Competitive grants program administered by the Department of Education for localities and community organizations to help improve the overall development of at-risk youth living in poor and high-crime communities. This program is for both in-school and after-school activities. $243 million authorized.

Local Partnership Act
Formula grant program administered by the Department of Housing and Urban Development for localities to enhance education, provide substance abuse treatment and fund job programs to prevent crimes. $1.6 billion authorized.

Model Intensive Grants
Competitive grant program for model crime prevention programs targeted at high-crime neighborhoods. Up to 15 cities will be selected. $625 million authorized.

Police Corps
Competitive funding for the Police Corps (college scholarships for students who agree to serve as police officers), and formula grants to states for scholarships to in-service law enforcement officers. $100 million authorized for Police Corps, and $100 million authorized for in-service law enforcement scholarships.

Prosecutors
Competitive grant program for state and local courts, prosecutors and public defenders. $150 million authorized.

Rural Law Enforcement
Formula grant program for rural anti-crime and drug enforcement efforts, including 6 task forces. $240 million authorized.

Technical Automation
Competitive grant program to support technological improvements for law enforcement agencies and other activities to improve law enforcement training and information systems. $130 million authorized.

Urban Recreation For At-Risk-Youth
Competitive grant program administered by the Department of Interior for localities to provide recreation facilities and services in areas with high crime rates and to provide such services in other areas to at-risk-youth. $4.5 million authorized.

For More Information

For further information about the Violent Crime and Law Enforcement Act of 1994, contact the:

Department of Justice
Response Center
1–800–421–6770

In the Washington, DC metropolitan area:
202–307–1480

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NCJ FS000067

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Key Policy Provisions of the Violent Crime Control Act Relative to Victims of Crime

I. Victims of Crime

- The Violent Crime Control Act gives victims of violent crime or sexual abuse the right to speak to the court before the imposition of sentence.

- The right to address the court extends to the victim's parent or legal guardian if the victim is less than 18 years old or is incompetent. It also extends to family members if the victim is deceased or incapacitated.

- The Violent Crime Control Act mandates that defendants be ordered to pay restitution to victims of sexual abuse and related federal crimes, and to victims of federal child pornography offenses.

- Under the Act the defendant must pay the full amount of the victim's losses, including costs incurred for medical services relating to physical, psychiatric, or psychological care; lost income; and attorneys' fees.

- A court may not decline to order restitution for a sexual abuse or child sexual exploitation offense on the basis of a defendant's economic circumstances, unless the defendant will be unable to pay any portion of the restitution order in the foreseeable future under a reasonable payment schedule.

II. Sex Offenders and Crime Against Children

- The Violent Crime Control Act directs the Attorney General to establish guidelines for state programs that require persons convicted of certain crimes against children, such as kidnaping and sexual misconduct, to register their addresses with an appropriate state law enforcement agency after their release from prison.

- The registration requirement also applies to persons convicted of a sexually violent offense against an adult or child.

- The required registration period ordinarily continues for 10 years after the offender is released from imprisonment or placed on probation. However, sexually violent predators must remain registered until a court determines that they no longer suffer from a mental abnormality that would make a predatory sexually violent offense likely.

- The state law enforcement agency must transmit a copy of the conviction data and fingerprints to the FBI.

- The failure of a state to implement the registration program subjects it to a 10% reduction of funds allocated to it under the Byrne Grant program.

- The Violent Crime Control Act doubles maximum term imprisonment applicable to an offender who commits a sexual abuse or sexual contact offense under federal law after one or more prior convictions for a federal or state sexual abuse or sexual contact offense.

- The Violent Crime Control Act creates a new "child sex tourism" offense, making it illegal for a U.S. citizen or permanent resident to travel in interstate or foreign commerce with the intent to engage in sexual acts with a minor that are prohibited under federal law in the United States, even if those acts are legal in the destination country.

III. Assault Weapons Ban

- The Violent Crime Control Act prohibits the manufacture, transfer, or possession of semiautomatic assault weapons not lawfully possessed under federal law on the date of enactment.

- The ban covers 19 military-style assault weapons, assault weapons with specific combat features, and "copy-cat" models. The Act specifically exempts over 600 firearm models used for hunting and sporting purposes.

- The Act also prohibits the transfer or possession of large capacity ammunition feeding devices not lawfully possessed on the date of enactment. Such devices are defined to include a magazine, feed strip, or similar device that can accept more than 10 rounds of ammunition or be readily restored or converted to accept more than 10 rounds.

- The ban on both semiautomatic assault weapons and large capacity ammunition feeding devices is subject to a sunset provision that will cause its repeal in ten years. In addition, semiautomatic assault weapons and large capacity ammunition feeding devices lawfully possessed on the date of enactment may be lawfully transferred to another individual.

IV. Firearms Licensing

- The Violent Crime Control Act strengthens the requirements for obtaining a federal firearms dealer license and imposes additional obligations on licensees.

- Under the Act, applicants for a federal firearms dealer license must certify that their firearms business is not prohibited under state or local law. Applicants for a firearms license must also certify that the chief law enforcement officer for the locality has been notified of the application.

- The Act requires applicants for a federal firearms dealer license to provide a photograph and fingerprints with their application.

- The Act also requires federal firearms dealer licensees to report the theft or loss of any firearm to federal and local authorities within 48 house after discovery.

- The Act requires federal firearms dealer licensees to respond to a gun trace request in the course of a bona fide criminal investigation within 24 hours.

V. Domestic Abusers and Firearms

- The Violent Crime Control Act makes the prohibitions of the federal firearms laws applicable to domestic abusers.

- Under the Act, these domestic abusers are prohibited from possessing a firearm. The Act also makes it unlawful to transfer a firearm to any such person.

- The prohibitions apply to any person subject to a court order restraining him or her from harassing, stalking, or threatening his or her "intimate partner," including a spouse or former spouse, or a child of his or her "intimate partner." It also applies to any person subject to a court order restraining him or her from engaging in conduct that would place his or her "intimate partner" in reasonable fear of bodily injury.

- For the new prohibitions to apply, the anti-stalking court order must have been issued under certain procedural protections. For example, there must have been a hearing with actual notice to that person restrained.

VI. Gang Crimes

- The Violent Crime Control Act creates new provisions aimed at criminal street gangs, by increasing the maximum prison sentence by up to 10 years, under certain circumstances, for gang-related federal drug or violent offenses committed by members of a criminal street gang.

- The Act defines a "criminal street gang" as an "ongoing" group or association of five or more persons that has as one of its primary purposes either: a) the commission of a federal drug offense punishable by at least five years in jail, or b) the commission of a federal violent offense.

- In addition, the members must have engaged within the past five years in a "continuing series" of such offenses, and the gang's activities must affect interstate or foreign commerce.

VII. Juveniles: Youth Handgun Safety

- The Violent Crime Control Act makes it a federal offense for a juvenile under 18 years of age knowingly to possess a handgun or handgun ammunition.

- The Act also makes in unlawful to transfer a handgun or handgun ammunition to a person the transferor knows or has reasonable cause to believe is under 18 years of age.

- The new provision is subject to a number of exceptions, such as for the armed

forces, ranching, farming, hunting, and other specified uses. Some exceptions require the juvenile to be in possession of the prior written consent of his or her parent or guardian.

- The penalty for possession of a handgun or handgun ammunition by a juvenile is probation if the juvenile has never been convicted of an offense or adjudicated a juvenile delinquent for an offense. Otherwise, the maximum penalty for a juvenile is one year of imprisonment.

- The penalty for an adult who transfers a handgun or handgun ammunition to a juvenile is ordinarily a maximum of one year of imprisonment. However, if the violator knew or had reasonable cause to know that the juvenile intended to possess or use the handgun or ammunition in a crime of violence, the maximum penalty is 10 years of imprisonment. (Under existing law a licensed firearms dealer who transfers any firearm to a person under 18 years of age, or any firearm other than rifle or shotgun to a person under 21 years of age, is subject to a maximum penalty of five years of imprisonment.)

VIII. Juveniles: Adult Prosecution

- The Violent Crime Control Act amends current law to permit adult prosecution of 13-14 year old charged with certain crimes of violence, including robbery or aggravated sexual abuse committed with a firearm.

- This provision does not apply to offenses committed by Indian juveniles in Indian country if the jurisdiction for the offense is predicated solely upon its occurrence within Indian country, unless the governing body of the tribe has elected to subject the tribe to the new provision.

- The Act also adds several serious firearms offenses to those for which a juvenile can be prosecuted as an adult.

- Another provision of the Act requires the court to consider, in determining whether a juvenile should be tried as an adult, the extent to which the juvenile played a leadership role in an organization, or otherwise influenced others to take part in criminal activities, involving the use or distribution of drugs or firearms.

IX. Death Penalty

- The Violent Crime Control Act establishes constitutional procedures for the imposition of the death penalty for federal crimes. It applies to federal statutes that previously carried the death penalty may now be imposed for nearly 60 federal criminal crimes.

- The new procedures include a special sentencing hearing to consider the imposition of the death penalty based upon findings of aggravating and mitigating circumstances.

- Among the new capital offenses are:
  - *murder by a federal prisoner serving life sentence*
  - *murder of a federal law enforcement official*
  - *drive-by shooting in the course of certain drug offenses*
  - *car jacking resulting in death*
  - *foreign murder of United States nationals; and*
  - *murder by escaped federal prisoners*

- The new provisions also permit imposition of the death penalty for certain large scale continuing drug enterprise offenses, even if no death has resulted.

- The Act allows judges in capital cases the discretion to impanel anonymous juries and to protect witnesses if the judge finds that identifying and providing addressees would jeopardize the life or safety of any person.

- The death penalty provisions do not apply to an offense committed by Indians in Indian county if federal jurisdiction is based solely upon its occurrence within Indian county, unless the governing body of the tribe has elected to subject the tribe to the new provision.

X. "Three Strikes" and Mandatory Life Imprisonment

- The Violent Crime Control Act requires life imprisonment (without possibility of parole) for federal offenders convicted of a serious violent felony or for a serious violent felony and a serious drug offense.

- To count toward "three strikes," the convictions must have occurred on separate occasions from each other, and each countable offense (other than the first) must have been committed after the defendant's conviction of the preceding one.

- Convictions prior to the date of enactment , September 13, 1994, count as strikes. The third strike must occur after the date of enactment.

- The statute defines "serious violent felony" to include such offenses as murder, rape, and kidnaping.

NOTE: Summary excerpted from the *Violent Crime Control and Law Enforcement Act of 1994: Briefing Book* issued by the U.S. Department of Justice. Compiled by the Massachusetts Office for Victim Assistance, April 1995.

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP No. 1015]

RIN 1121-AA27

Grants to Combat Violent Crimes Against Women

AGENCY: Department of Justice, Office of Justice Programs.

ACTION: Proposed Rule.

SUMMARY: This proposed rule implements and requests comments on the Grants to Combat Violence Against Women Program as authorized by sections 2001 through 2006 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title IV, Section 40121 of the Violent Crime Control and Law Enforcement Act of 1994.

DATE: Comments on this proposed rule must be received on or before February 27, 1995.

ADDRESS: All comments concerning these proposed regulations should be addressed to the Office of the General Counsel, Office of Justice Programs, Room 1245, 633 Indiana Avenue NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1-800-421-6770 or (202) 301-1480.

SUPPLEMENTARY INFORMATION: The Violence Against Women Act (VAWA), is enacted by the 103rd Congress, is set out in Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (Sept. 13, 1994). VAWA, in part, amends the Omnibus Crime Control and Safe Streets Act of 1968, as amended (the Omnibus Act), 42 U.S.C. 3711 et seq. by adding a new 'Part T'. Part T comprises Sections 2001 through 2006, to be codified at 42 U.S.C. 3796gg through 3796gg-5. Unless otherwise specified, statutory references to those provisions will be to the Sections in Part T of the Omnibus Act, as amended by VAWA.

This new program authorizes FY 1995 Federal financial assistance to States for developing and strengthening effective law enforcement and prosecution strategies and victim services in cases involving violent crimes against women. Units of local government, Indian tribal governments and non-profit, non-governmental victim service programs are eligible to apply directly to the Office of Justice Programs for discretionary grants under Subpart C of these regulations.

Statement of the Problem

There are three aspects to violence against women in the United States which reflect the compelling nature of the problem. First, there are a tremendous number of incidents of violent crimes against women, many of which are often hidden and under-reported. The following statistics taken from the Bureau of Justice Statistics' 1994 data from the National Crime Victimization Survey, and a recent Bureau of Justice Statistic report, Violence Against Women (January 1994), paint a grim picture of violence against women in America:

- Over two-thirds of violent crimes committee against women were committed by someone known to them.
- Over 1 million women a year are victims of violence perpetrated by husbands or boyfriends.
- Every year, nearly 500,000 women age 12 or older are victims of rape or attempted rape.
- Data from 1992 show that one-third of all female murder victims over age 14 were killed by an intimate, such as a boyfriend, spouse, or ex-spouse.
- Over half of the family violence crime victimizations result in injuries to the victim; female victims are more likely to sustain injuries at the hands of intimates than strangers.
- Less than half of all violent crime against women is ever reported to law enforcement officials.
- Over one-fifth of those convicted of intimate violent offenses reported having been physically or sexually abused during childhood.
- Over one-third of those incarcerated for harming an intimate had a previous conviction for a violent offense.

Second, it is only recently that society has begun to view violence against women as a serious criminal problem. In domestic violence cases, where the victim knows the perpetrator, there has been a tendency to consider the matter a private dispute and not a crime for public scrutiny or judgment. Even when the violence comes at the hands of a stranger, as in many cases of sexual assault, the incident has too often been blamed more on the victim than on the perpetrator.

The third aspect of the problem lies in the traditional response by the justice system to incidents of violence against women. Existing criminal justice and victim services efforts to alleviate the problem have been fragmented due to lack of resources and/or coordination. Consequently, the criminal justice system has too often not been responsive to women in domestic violence and sexual assault cases.

The Violence Against Women Act of 1994

VAWA reflects a firm commitment towards working to change the criminal justice system's response to violence that occurs when any women is threatened or assaulted by someone with whom she has or has had an intimate relationship, with whom she was previously acquainted, or who is a stranger. By committing significant Federal resources and attention to issues of violence against women, VAWA can assist the nation's criminal justice system in responding to the needs and concerns of women who have been, or potentially could be, victimized by violence.

Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

For FY 1995, Congress appropriated $26 million to the Department of Justice as a down payment towards assistance to combat violent crimes against women. Part T authorizes an appropriation of $130 million for FY 1996 and increasing amounts in following years.

Thus, the $26 million appropriation for FY 1995 is the initial step of a multi-year program designed to encourage States to implement innovative and effective criminal justice approaches to this problem. VAWA enumerates the following seven broad purpose areas for which funds may be used:

(1) training for law enforcement officers and prosecutors to identify and respond more effectively to violent

crimes against women, including crimes of sexual assault and domestic violence;

(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women;

(3) developing and implementing more effective police and prosecution policies and services for preventing and responding to violent crimes against women;

(4) developing and improving data collection and communications systems linking police, prosecutors, and courts or for purposes of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions;

(5) developing, expanding, or improving victim services programs, including improved delivery of such services for racial, cultural, and ethnic minorities, and providing specialized domestic violence court advocates;

(6) developing and enhancing programs addressing stalking; and

(7) developing and enhancing programs addressing the special needs and circumstances of Indian tribes in dealing with violent crimes against women.

Additionally, by statute, 4% of the of the amount appropriated each year is available for Indian tribal governments through a discretionary program. For FY 1995, this program will fund up to fifteen to twenty programs. Tribes, which may apply individually or as a consortium in order to maximize resources, are encouraged to develop programs which address their unique needs.

A Coordinated and Integrated Approach to the Problem

By definition, a coordinated and integrated approach suggests a partnership among law enforcement, prosecution, the courts, victim advocates and service providers. The goal of this program is to encourage States and localities to restructure and strengthen the criminal justice response to be pro-active in dealing with this problem; to draw on the experience of all the players in the system, including the advocate community; and to develop a comprehensive set of strategies to deal with this complex problem. The development of such strategies necessitates collaboration among police, prosecutors, the courts, and victim services providers. Thus, the program requires that jurisdictions draw into the planning process the experience of nongovernmental victim services and State domestic violence and sexual assault coalitions, as well as existing domestic violence and sexual assault task forces and coordinating councils, in addition to police, prosecutors and the courts. Examples of innovative approaches include those:

- Instituting comprehensive training programs to change attitudes that have traditionally prevented the criminal justice system from adequately responding to the problem.
- Forming specialized units within police departments and prosecutors' offices, or specialized multi-disciplinary units, devoted exclusively to the handling of domestic violence and sexual assault cases.
- Establishing sexual trauma units in emergency rooms where forensic examinations, victim counseling, and victim advocacy are equally available.
- Developing strategies that maximize resources by establishing regional approaches, such as the registration and enforcement of protective orders across jurisdictional lines.
- Establishing protocols to achieve better coordination in the handling of cases involving violence against women between civil and criminal courts.
- Establishing and expanding victim services that address the special needs of women from minority and ethnic communities, women who are disabled, or women who do not speak English.

Eligibility Requirements Applicable To The States

To be eligible to receive grants under this program, States must develop plans which comply with the requirements set out in VAWA. Although grant amounts are limited for FY 1995, States should plan their VAWA activities with a view to implementing a continuing program over the next several years.

First, States will have to demonstrate how they plan each year to distribute their grant funds. At least 25% must be allocated to law enforcement, 25% to prosecution, and 25% to victim services programs. Section 2002(c)(3). Second, priority must be given to areas within the State of varying geographic size with the greatest showing of need. Need is based on population and the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served. Section 2002(e)(2)(C). States must insure equitable geographic distribution among urban, non-urban, and rural areas. They must also address the needs of populations previously underserved due to geographic location, racial or ethnic barriers, or special needs such as language barriers or physical disabilities. Section 2002(e)(2)(D). States are encouraged to develop preliminary multi-year plans for the disbursement of funds based on geography, need, and underserved populations to achieve a balanced distribution, consistent with the statute, over the life of the program extending through FY 2000.

Third, in their applications, States and Indian tribal governments must certify that they (or another level of government) will incur the full out-of-pocket costs for forensic medial exams involving sexual assault victims. Section 2005(a)(1). Additionally, each State and Indian tribal government must also provide certification that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena. Section 2006(a)(1). If the latter condition is not satisfied, States and Indian tribal governments must provide assurances that they will be in compliance by September 13, 1996, or at the end of the next legislative session, whichever is later.

Finally, an important goal of the legislation is to create vehicles for the various participants in the system to begin a dialogue. To help foster this communication, States are required to consult and coordinate with non-profit, non-governmental victim services programs, including sexual assault and domestic violence victim services programs.

Indian Tribal Governments Discretionary Program

Indian tribal governments are eligible recipients for these funds either through the States as subgrantees or directly from the Office of Justice Programs through a small discretionary program. As described, the Office of Justice Programs will make grants to States and the State will make funds available to units of local government, Indian tribal governments and non-profit, non-governmental victim services programs. In addition, VAWA requires that 4% of the total funds be set aside for Indian tribal governments. These funds may be used for the same general purposes set out for the State recipients in the block grant program.

Tribes will be invited to make individual applications, or apply as a consortium or as an inter-tribal group. VAWA defines Indian tribes to include both those with and without law enforcement authority. Section 2003(3). Consequently, the requirement applicable to State block grants, that at least 25% of the total grant award be allocated respectively to law

enforcement, prosecution, and victim assistance, would not be applicable to Indian tribal governments that do not have law enforcement authority. Nonetheless, program plans should be developed through consultation with tribal law enforcement, prosecutors, courts, and victims services to the extent they exist. Tribal applicants are also encouraged to integrate into their plans traditional models of dispute resolution such as peacemaker forums. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

Funding limits the number of discretionary grants in FY 1995 to approximately fifteen to twenty awards. To be eligible for funding under the discretionary program, Indian tribal governments must comply with the forensic exam cost and the filing and serving fee requirements applicable to the State block grant program.

Technical Assistance and Training/ Evaluation

The Office of Justice Programs intends to assist States and Indian tribal governments in meeting the program goal of developing effective coordinated and integrated strategies. A small portion of the funds provided under this program has been set aside to provide specialized training and technical assistance to States and units of local government and Indian tribal governments to help restructure the system's response to violence against women.

Further, consistent with the statute, the Office of Justice Programs, in conjunction with the National Institute of Justice, will evaluate the effectiveness of the programs established with these funds. Recipients of grants must agree to cooperate with Federally-sponsored evaluations of their projects. In addition, the Attorney General is required by VAWA to report to Congress on a profile of the persons served, the programs funded, and their effectiveness. Program recipients must therefore specifically provide a statistical summary of persons served, detailing the nature of victimization, and providing data on age, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability. Additionally, program recipients are expected to cooperate with any investigations or audits performed by components of the Department of Justice, including the Civil Rights Division or the Office of the Inspector General.

Request for Comments

The Office of Justice Programs seeks to fulfill Congressional intent by soliciting, encouraging and incorporating comments on all aspects of this program while ensuring that the statutory limitations are applied appropriately to all recipients. Comments are specifically solicited on, but not limited to, the following issues:

(1) The scope of the impact on States, units of local government, and Indian tribal governments of the mandate, contained in § 90.14 of subpart B of this regulation, that exempts sexual assault victims from paying out-of-pocket expenses with regard to forensic medical exams.

(2) Whether the scope of the services identified in § 90.2(b) of subpart A (the definition of forensic exam) of this proposed regulation adequately covers the needs of victims and prosecutors.

(3) The special needs of Indian tribal governments in implementing the discretionary grant program.

(4) The scope of the impact on States, units of local government, and Indian tribal governments of the mandate, contained in § 90.15 of subpart B of this regulation, prohibiting the imposition of criminal court-related costs on domestic violence victims,and proposed timetables for States, local governments and Indian tribal governments in meeting this mandate.

(5) Approaches to addressing allocation and distribution requirements applicable to States, as set out in § 90.16 of subpart B, in making subgrants to units of local government.

A detailed Program Announcement for the States for FY 1995 will be available in March 1995. An Application Kit for Indian tribal governments will also be available in March 1995.

Administrative Requirements

The Office of Justice Programs has determined that this rule is a "significant regulatory action" for purposes of Executive Order 12866 and, accordingly, this rule has been reviewed by the Office of Management and Budget.

In addition, this rule will not have a significant impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

No information requirements are contained in this rule. Any information collection requirements contained in future application notices for this program will be reviewed by the Office of Management and Budget, as is required by provisions of the Paperwork Reduction Act, 44 U.S.C. 3504(h).

List of Subjects

Grant programs, Judicial administration. For the reasons set out in the preamble, Title 28, Chapter I of the Code of Federal Regulations is proposed to be amended by adding the new part 90 as set forth below.

PART 90—VIOLENCE AGAINST WOMEN

Subpart A—General Provisions

Subpart B—Grants to Combat Violence Against Women Program

Subpart C—Discretionary Grants for Indian Tribal Governments

Authority: Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3711 *et seq.*, as amended by Pub. L. No. 103–322.

Subpart A—General Provisions

§ 90.1 General.

(a) This part implements provisions of the Violence Against Women Act (VAWA), which was enacted by Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322 (Sept. 13, 1994).

(b) Subpart B of this part defines program eligibility criteria and sets forth requirements for application for and administration of formula grants to States to combat violent crimes against women. This program under VAWA was enacted as a new "Part T" of Title

I of the Omnibus Crime Control and Safe Streets Act of 1968 (the Omnibus Act), codified at 42 U.S.C. 3796gg through 3796gg–5. Units of local government, Indian tribal governments, and non-profit, non-governmental victim services programs are eligible to apply for subgrants from this program.

(c) Indian tribal governments are eligible to receive assistance as part of the State program pursuant to subpart B of this part. In addition, Indian tribal governments may apply directly for discretionary grants under subpart C of this part.

§ 90.2 Definitions.

(a) *Domestic violence.* As used in this part, *domestic violence* includes felony or misdemeanor crimes of violence (including threats or attempts) committed:

(1) By a current or former spouse of the victim;

(2) By a person with whom the victim shares a child in common;

(3) By a person who is co-habitating with or has co-habitated with the victim as a spouse;

(4) By a person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction receiving grant monies; or

(5) By any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies. Section 2003(1).

(b) *Forensic medical examination.* The term *forensic medical examination* means:

(1) All medical diagnostic procedures performed for a sexual assault victim, including, but not limited to:

(i) Examination of physical trauma;

(ii) Determination of penetration, force, or lack of consent;

(iii) Patient interview; and

(iv) Collection and evaluation of evidence.

(2) The records and test results of such diagnostic procedures and evidence collection must be obtained in a manner suitable for use in a court of law.

(c) *Indian tribe.* The term *Indian Tribe* means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation [as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Section 2003(3).

(d) *Law enforcement.* The term law enforcement means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs). Section 2003(4).

(e) *Prosecution.* For purpose of this program the term *prosecution* means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus such as governmental victim services programs. Section 2003(5).

(f) *Sexual assault.* The term *sexual assault* means any conduct proscribed by chapter 109A of Title 18, United States Code, and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim. Section 2003(6).

(g) *State.* The term *State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(h) *Unit of local government.* For the purpose of subpart B, of this part, the term *unit of local government* means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or Indian tribe which performs law enforcement functions as determined by the Secretary of Interior, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and the Trust Territory of the Pacific Islands.

(i) *Victim services.* The term *victim services* means a private non-profit non-government organization that assists domestic violence and sexual assault victims, including rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, such as non-profit, non-governmental organizations assisting domestic violence or sexual assault victims through the legal process. Section 2003(8).

Subpart B—Grants To Combat Violence Against Women Program

§ 90.10 Description of grants to combat violence against women.

It is the purpose of this program to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women. Section 2001(a).

§ 90.11 Program criteria.

(a) The Assistant Attorney General for the Office of Justice Programs is authorized to make grants to the States, for use by States, Indian tribal governments, units of local government and non-profit, non-governmental victim services programs for the purpose of developing and strengthening effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

(b) States and localities shall develop plans for implementation and shall consult and coordinate with non-profit, non-governmental victim services programs, including sexual assault and domestic violence victim services programs. Section 2002(c)(2). The goal of the planning process is the enhanced coordination and integration of law enforcement, prosecution, and victim services in the prevention, identification, and response to cases involving violence against women. States and localities are encouraged to include Indian tribal governments in developing their plans. States and localities should, therefore, consider the needs of Indian tribal governments in developing their law enforcement, prosecution and victims services in cases involving violence against women, services in cases involving violence against women. Indian tribal governments may also be considered subgrantees of the State. Section 2002(a).

§ 90.12 Eligible purposes.

(a) *In general.* Grants under this program shall provide personnel, training, technical assistance evaluation, data collection and equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women.

(b) *Eligible purposes.* Section 2001(b). Grants under the program may be used for the following purposes:

(1) Training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) Developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) Developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

(5) Developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs; developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

(6) Developing, enlarging, or strengthening programs addressing stalking; and

(7) Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

§ 90.13 Eligibility.

(a) All States are eligible to apply for, and to receive, grants to combat violent crimes against women under this program. Indian tribal governments, units of local government, and non-profit, non-governmental victim service programs may receive subgrants from the States under this program.

(b) For the purpose of this subpart B, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and, for these purposes, 67% of the amounts allocated shall be allocated to American Samoa, and 33% to the Commonwealth of the Northern Mariana Islands.

§ 90.14 Rape exam payment requirement.

(a) For the purpose of this subpart B, a State, Indian tribal government or unit of local government shall not be entitled to funds under this program unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full costs of forensic medical exams for victims of sexual assault. Section 2005(a)(1).

(b) A State, Indian tribal government, or unit of local government shall be deemed to incur the full cost of forensic medical exams for victims of sexual assault if that governmental entity or some other:

(1) Provides such exams to victims free of charge;

(2) Arranges for victims to obtain such exams free of charge; or

(3) Reimburses victims for the cost of such exams if:

(i) The reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of reimbursement;

(ii) The governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

(iii) The governmental entity provides reimbursement not later than ninety days after written notification of the victim's expense; and

(iv) The governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement. Section 2005(b).

§ 90.15 Filing costs for criminal charges.

(a) A State shall ot be entitled to funds under this subpart B unless it:

(1) Certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena; or

(2) Assures that its laws, policies and practices will be in compliance with the requirements of paragraph (a)(1) of this section by the date on which the next session of the State legislature ends, or by September 13, 1996, whichever is later.

(b) An Indian tribal government or unit of local government shall not be eligible for subgrants from the State unless it complies with the requirements of paragraph (a) of this section with respect to its laws, policies and practices.

(c) If a State does not come into compliance within the time allowed in paragraph (a)(2) of this section, the State will not receive its share of the grant money whether or not individual units of local government are in compliance.

§ 90.16 Availability and allocation of funds.

(a) Section 2002(b) provides for the allocation of the amounts appropriated for this program as follows:

(1) *Allocation to Indian tribal governments.* Of the total amounts appropriated for this program, 4% shall be available for grants directly to Indian tribal governments. This program is addressed in subpart C of this part.

(2) *Allocation to States.* Of the total amounts appropriated for this program in any fiscal year, after setting aside the portion allocated for discretionary grants to Indian tribal governments covered in paragraph (a)(1) of this section, and setting aside a portion for evaluation, training and technical assistance, a base amount shall be allocated for grants to eligible applicants in each State. After these allocations are made, the remaining funds will be allocated to each State on the basis of the State's relative share of total U.S. population. For purposes of determining the distribution of the remaining funds, the most accurate and complete data complied by the U.S. Bureau of the Census shall be used.

(3) *Allocation of funds within the State.* Funds granted to qualified States are to be further subgranted by the State to agencies and programs including, but not limited to State agencies, public or private non-profit organizations, units of local government, Indian tribal governments, non-profit, non-governmental victim services programs, and legal services programs to carry out programs and projects specified in § 90.12.

(b) In distributing funds received under this part, States must:

(1) Give priority to areas of varying geographic size with the greatest showing of need. In assessing need, States must consider the range and availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas. Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis. Section 2002(e)(2)(A).

(2) Take into consideration the population of the geographic area to be served when determining subgrants. Section 2002(e)(2)(B). Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this

requirement on an annual or multi-year basis.

(3) Equitably distribute monies on a geographic basis, including non-urban and rural areas of various geographic sizes. Section 2002(e)(2)(C). Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(4) In disbursing monies, States must ensure that the needs of previously underserved populations are identified and addressed in its funding plan. Section 2002(e)(2)(D). For the purposes of this program, underserved populations include, but are not limited to, populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs due to language barriers or physical disabilities. Section 2003(7). Each State has flexibility to determine its basis for identifying underserved populations, which may include public hearings, needs assessments, task forces, and U.S. Bureau of Census data. Applications submitted by the States for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(c) States must certify that a minimum of 25% of each year's grant award (75% total) will be allocated, without duplication, to each of the following areas: prosecution, law enforcement, and victim services. Section 2002(c)(3). This requirement applies to States and does not apply to individual subrecipients, or Indian tribal governments.

§ 90.17 Matching requirements.

A grant made under the State formula program may not be expended for more than 75% of the total costs of the projects specified in a State's application submission. Section 2002(f). The States are expected to submit a budget which identifies the source of the 25% non-Federal portion of the budget. The non-Federal expenditures must be committed for each funded project and cannot be derived from other Federal funds. States may satisfy this 25% match through in-kind services. Indian tribes, who are subgrantees of a State under this program, may meet the 25% matching requirement for programs under this subpart B by using funds appropriated by Congress for the activities of any agency of an Indian tribal government or for the activities of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands. All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period.

§ 90.18 Non-supplantion.

Federal funds received under this part shall be used to supplement, not supplant non-Federal funds that would otherwise be available for expenditure on activities described in this part. Section 2002(c)(4).

§ 90.19 State office.

(a) Statewide plan and application. The chief executive of each participating State shall designate a State office for the purposes of:

(1) Certifying qualifications for funding under this subpart B;

(2) Developing a statewide plan for implementation of the grants to combat violence against women in consultation and coordination with non-profit, non-governmental victim services programs, including sexual assault and domestic violence service programs;

(3) preparing an application to obtain funds under this subpart B;

(b) Administration and fund disbursement. In addition to the duties specified by paragraph (a) of this section the office shall:

(1) Administering funds received under this subpart B, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

(2) Coordinating the disbursement of funds provided under this part with other State agencies receiving Federal, State, or local funds for domestic or family violence and sexual assault prosecution, prevention, treatment, education, and research activities and programs.

§ 90.20 Application content.

(a) *Format.* Applications from the States for grants to Combat Violence Against Women must be submitted on Standard Form 424, Application for Federal Assistance, at a time specified by the Office of Justice Programs. The Office of Justice Programs will request the Governor of each State to identify which State agency should receive the Application Kit. The Application Kit will include a Standard Form 424, a list of assurances that the applicant must agree to, a table of fund allocations, and additional guidance on how to prepare and submit an application for grants under this subpart.

(b) *Programs.* Applications must set forth programs and projects which meet the purposes and criteria of the Grants to Combat Crimes Against Women program set out in §§ 90.11 and 90.12 on an annual or multi-year basis.

(c) *Requirements.* Applicants in their applications shall at the minimum

(1) Include documentation from non-profit, non-governmental victim services programs describing their participation in developing the plan as provided in § 90.19(a);

(2) Include documentation from prosecution, law enforcement, and victim services programs to be assisted, demonstrating the need for grant funds, the intended use of the grant funds, the expected results from the use of grant funds, and demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background. Section 2002(d)(1);

(3) Include proof of compliance with the requirements for rape exam payments as provided in § 90.14(a);

(4) Include proof of compliance with the requirements for filing and service costs for domestic violence cases as provided in § 90.15; and

(5) Describe how the State and its subgrantees will provide for evaluation of programs funded under this subpart, as provided in § 90.21(b), and agree to cooperate with the National Institute of Justice in a Federally-sponsored evaluation.

(d) *Certifications.* (1) As required by Section 2002(c) each State must certify in its application that it has met the requirements of this subpart regarding the use of funds for eligible purposes (§ 90.12); allocation of funds for prosecution, law enforcement, and victims services § 90.16(c)); non-supplantation (§ 90.18); and the development of a statewide plan and consultation with victim services programs (§ 90.19(a)(2)).

(2) Each State must certify that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.21 Evaluation.

(a) The National Institute of Justice will conduct an evaluation of these programs. A portion of the overall funds authorized under this grant program will be set aside for this purpose.

Recipients of funds under this Subpart must agree to cooperate with Federally-sponsored evaluations of their projects.

(b) Recipients of program funds are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of the program funded under this subpart. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

§ 90.22 Review of State Applications.

(a) *Review criteria.* The provisions of Part T of the Omnibus Act and of these regulations provide the basis for review and approval or disapproval of State applications and amendments in whole or in part.

(b) *Intergovernmental review.* This program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

(c) *Written notification and reasons for disapproval.* The Office of Justice Programs shall approve or disapprove applications within sixty days of official receipt and shall notify the applicant in writing of the specific reasons for the disapproval of the application in whole or in part. Section 2002(e)(1).

§ 90.23 Grantee Reporting.

(a) Upon completion of the grant period under this subpart, a State shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this part.

(b) A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. Section 2002(h)(2).

(c) The Assistant Attorney General shall suspend funding for an approved application if:

(1) An applicant fails to submit an annual performance report;

(2) Funds are expended for purposes other than those described in this subchapter; or

(3) A report under this Section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

Subpart C—Discretionary Grants for Indian Tribal Governments

§ 90.50 Indian Tribal Governments Discretionary Program.

(a) Indian tribal governments are eligible to receive assistance as part of the State program pursuant to subpart B of this part. In addition, Indian tribal governments may also apply directly to the Office of Justice Programs for discretionary grants under this Subpart, based on Section 2002(b)(1).

(b) Indian tribal governments under the Violence Against Women Act (VAWA) do not need to have law enforcement authority. Thus, the requirements, applicable to State formula grants under Subpart B that at least 25% of the total grant award be allocated to law enforcement and 25% to prosecution, are not applicable to Indian tribal governments which do not have law enforcement authority.

§ 90.51 Program Criteria for Indian Tribal Government Discretionary Grants.

(a) The Assistant Attorney General for the Office of Justice Programs is authorized to make grants to Indian tribal governments for the purpose of developing and strengthening effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

(b) Grantees shall develop plans for implementation and shall consult and coordinate with, to the extent that they exist, tribal law enforcement; prosecutors; courts; and non-profit, non-governmental victim services programs, including sexual assault and domestic violence victim services programs. The goal of the planning process should be to achieve better coordination and integration of law enforcement, prosecution, and victim services in the prevention, identification, and response to cases involving violence against women.

§ 90.52 Eligible Purposes.

(a) Grants under this program may provide personnel, training, technical assistance, evaluation, data collection and equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women.

(b) Grants may be used for the following purposes (Section 2001(b)):

(1) Training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) Developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) Developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

(5) Developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

(6) Developing, enlarging, or strengthening programs addressing stalking; and

(7) Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

§ 90.53 Eligibility of Indian Tribal Governments.

(a) *General.* Indian tribes as defined by Section 90.2 of this Part shall be eligible for grants under this Subpart.

(b) *Rape exam payment requirement.* (1) An Indian tribal government shall not be entitled to funds under this program unless the Indian tribal government (or other governmental entity) incurs the full costs of forensic medical exams for victims of sexual assault.

(2) An Indian tribal government shall be deemed to incur the full cost of forensic medical exams for victims of sexual assault if, where applicable, it meets the requirements of § 90.14(b) or establishes that another governmental entity is responsible for providing the

services or reimbursements meeting the requirements of § 90.14(b).

(c) *Filing costs for criminal charges requirement.* An Indian tribal government shall not be entitled to funds under this Part unless the Indian tribal government:

(1) Certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, witness subpoena; or

(2) Assures that its laws, policies and practices will be in compliance with the requirements of paragraph (a) of this section by September 13, 1996. (Section 2006).

§ 90.54 Allocation of Funds.

(a) 4% of the total amounts appropriated for this program under Section 2002(b) shall be available for grants directly to Indian tribal governments.

(b) Indian tribal governments may make individual applications, or apply as a consortium.

(c) Limited funding restricts the awarding of grants to approximately fifteen to twenty awards in FY 1995. The selection process will be sensitive to the differences among tribal governments and will take into account the applicants' varying needs in addressing violence against women.

§ 90.55 Matching Requirements.

A grant made to an Indian tribal government under this subpart C may not be expended for more than 75% of the total costs of the projects specified in the application. Applicants should submit a budget which identifies the source of the 25% matching funds. Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide matching share of the cost of programs or projects funded. An Indian tribal government may also satisfy the 25% match through in-kind services. All funds designated as match are restricted to the same uses as the grant funds and must be expended within the grant period.

§ 90.56 Non-supplantation.

Federal funds received under this part shall be used to supplement, not supplant funds that would otherwise be available for expenditure on activities described in this part. (Section 2002(c)(4))

§ 90.57 Application Content.

(a) *Format.* Applications from the Indian tribal groups for discretionary grants to Combat Violence Against Women must, under this subpart, be submitted on Standard Form 424, Application for Federal Assistance, at a time specified by the Office of Justice Programs.

(b) *Programs.* (1) Applications must set forth programs and projects for a one year period which meet the purposes and criteria of the Grants to Combat Crimes Against Women program set out in Section 2001(b) and § 90.12.

(2) Plans should be developed by consulting with tribal law enforcement, prosecutors, courts, and victim services, to the extent that they exist. Applicants are also encouraged to integrate into their plans traditional models of dispute resolution, such as peacemaker forums. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

(c) *Requirements.* Applicants in their applications shall at the minimum:

(1) Describe the project or projects to be funded.

(2) Agree to cooperate with the National Institute of Justice in a Federally-sponsored evaluation of their projects.

(d) *Certifications.* (1) As required by Section 2002(c) each Indian tribal government must certify in its application that it has met the requirements of this subpart regarding the use of funds for eligible purposes (§ 90.52); and non-supplantation (§ 90.56).

(2) A certification that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.58. Evaluation.

The National Institute of Justice will conduct an evaluation of these programs.

§ 90.59 Grantee Reporting.

(a) Upon completion of the grant period under this part, an Indian tribal grantee shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this subpart. Section 2002(h)(1).

(b) The Assistant Attorney General shall suspend funding for an approved application if:

(1) An applicant fails to submit an annual performance report;

(2) Funds are expended for purposes other than those described in this subchapter; or

(3) A report under this Section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

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BILLING CODE 4410–18–M

September 13, 1994

Contact: ACF Press Office
(202) 401-9215

HHS RESPONSIBILITIES UNDER THE CRIME BILL

The Crime Bill signed by President Clinton today strengthens HHS' ongoing efforts to help prevent violence and crime. HHS programs in the Crime Bill will offer positive alternatives to youth, protect women from violence, and provide increased business and employment opportunities for low-income people and communities. HHS' involvement is reflected in four key provisions of the bill:

- -- **Domestic Violence and Violence Against Women**
- -- **Family and Community Schools**
- -- **National Community Economic Partnership**
- -- **The Ounce of Prevention Council.**

The Crime Bill authorizes a total of $1.4 billion to support these HHS programs over the next six years.

New services to be provided by HHS will complement a large number of existing social and public health programs in the department. These include social programs that offer opportunities to youth for positive development, programs to help alleviate conditions that may lead to crime and violence, as well as public health programs aimed at better understanding and preventing violence.

With passage of the Crime Bill, HHS can expand its preventive activities to protect women and children and to increase economic development for disadvantaged communities to create greater employment opportunities. Areas of responsibility include:

- ***Domestic violence and rape prevention programs*** *will help provide critical services to women who are, or are at risk of becoming, victims of violence in their homes. Domestic violence is the leading cause of injury to women in the U.S. Women who are victims of domestic violence will have safe places to go. A national hotline for victims will be established to help women protect themselves and their children. Funds will also support the establishment of community- and school-based programs. These activities will reflect HHS' ongoing focus on the connections among child abuse, child welfare, and domestic violence. Total authorized funding: $574 million.*

- ***Community Schools Youth Services and Supervision Grants*** *offer youth constructive opportunities for positive, healthy development by establishing supervised sports, extra-curricular and academic activities including tutoring, mentoring, work force preparation, cultural activities, and access to improved health care, including counseling and substance abuse treatment. This program supplements other HHS initiatives which improve the lives of vulnerable youth and their families. Total authorized funding: $567 million.*

- ***The National Community Economic Partnership*** *will offer lines of credit to community development corporations which ultimately will be used to finance projects that generate business and employment opportunities for low-income, unemployed, or underemployed people in urban and rural areas. Community Development Corporation Improvement Grants will allow community development corporations to enhance their management and operating abilities and expand their community development activities. These two new programs augment existing community economic development programs which have been providing employment and ownership opportunities to the poor through business, physical, or commercial development. Total authorized funding: $270 million.*

- ***The Ounce of Prevention Council*** *will enable federal programs to concentrate resources on high quality, community-based efforts for at-risk youth. Prevention programs will provide our youth with critical services to keep them off the streets and assist in the creation of safe havens where they can play and learn. Outreach to at-risk families and other activities will also help to reduce substance and child abuse and adolescent pregnancy. The Ounce of Prevention Council will coordinate federal activities that are aimed at preventing crime and violence.*

FUNDING: To support anti-crime and violence activities in the Crime Bill, savings realized from the implementation of the Federal Workforce Restructuring Act of 1994 will be placed in the new ***Violent Crime Reduction Trust Fund*** *in the Treasury.*

Additional Background on the HHS Programs:

The Domestic Violence/Violence Against Women Act Provisions

- Education and Prevention Grants to Reduce Sexual Assaults Against Women -- State grant funds will be available for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities for educational seminars, the operation of hotlines, training programs, preparation of informational materials, and other activities to increase awareness of and to help prevent sexual assault. States must ensure that at least 25 percent of the funds are devoted to education programs targeted for middle school, junior high school, or high school students. Authorized appropriations are $35 million for each of FY 1996 and FY 1997; $45 million for each of FY 1998, FY 1999 and FY 2000. Total authorized HHS appropriation: $205 million.

- Education and Prevention Grants to Reduce Sexual Abuse of Runaway, Homeless, and Street Youth -- Grants for Prevention of Sexual Abuse and Exploitation will be awarded to eligible private, nonprofit agencies for street-based outreach and education and referral for runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse. Authorized appropriations are $7 million for FY 1996; $8 million for FY 1997; and $15 million for FY 1998. Total authorized HHS appropriation: $30 million.

- National Domestic Violence Hotline Grants -- A grant for up to five years will be awarded to a private, nonprofit entity to establish and operate a 24-hour, national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. Counseling and referral services will be provided 24 hours a day. A data base will be developed and maintained that provides information on services, including the availability of shelters throughout the U.S., to which callers may be referred. Hotline counselors will be available for non-English speakers and for people who are hearing impaired. Authorized appropriations are $1 million for FY 1995 and $400,000 for each fiscal year from FY 1996 through FY 2000. Total authorized HHS appropriation: $3 million.

- Grants for Battered Women's Shelters -- The Crime Bill amends the Family Violence Prevention and Services Act to authorize appropriations of $50 million for FY 1996; $60 million for FY 1997; $70 million for FY 1998; and $72.5 million for each of FY 1999 and FY 2000. Total authorized HHS appropriation: $325 million.

- Youth Education and Domestic Violence -- HHS and the U.S. Department of Education will select, implement, and evaluate four model programs for the education of young people about domestic violence and violence among intimate partners. The programs will address four different audiences (primary schools, middle schools, secondary schools, and institutions of higher education). The authorized HHS appropriation is $400,000 for FY 1996.

- Demonstration Grants for Community Partnerships -- Projects in local communities that involve such sectors as health care providers, the education and religious community, the justice system, domestic violence program advocates, human service entities, and business and civic leaders will develop a coordinated community plan for intervention in and prevention of domestic violence. Grants will be awarded for up to three years to these private nonprofit organizations. Authorized appropriations are $4 million for FY 1996 and $6 million for FY 1997. Total authorized HHS appropriation: $10 million.

- Technical Amendments to Family Violence Prevention and Services Act -- The amendments strengthen the current family violence prevention and services program by emphasizing service to traditionally underserved populations, strengthening reporting requirements, and by authorizing a new special issue resource center to provide technical assistance and training to state domestic violence coalitions.

- Study of the Number and Cost of Injuries Resulting from Domestic Violence -- The CDC is required to conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence and the cost of injuries. The study will recommend health care strategies for reducing the incidence of such injuries. The total authorized HHS appropriation is $100,000 for FY 1996.

- Report on Battered Women's Syndrome -- The Departments of Justice and HHS are to transmit to Congress within one year a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in criminal trials. No authorized appropriations have been made.

The Family and Community Schools Provisions

- Community Schools Youth Services and Supervision Grant Program Act of 1994 -- Through this new program, HHS, in consultation with the Department of Justice, will make matching grants to private, community-based, nonprofit organizations in communities with significant poverty and juvenile delinquency for after-school, weekend, holiday, and summer recreation and education programs. The programs are for children ages 5 to 18 at public schools or other local facilities, such as colleges or universities, local or state parks or recreation centers, or military bases. They will provide for supervised sports and other extramural activities, educational enrichment programs, tutoring, mentoring, work force preparation, and access to health care, including counseling and substance abuse treatment. Priority will be given to applicants that demonstrate the greatest effort in generating local support for the programs.

  Authorized appropriations are $25.9 million in FY 1995; $72.45 million in FY 1996; $85.05 million in FY 1997; $107.1 million in FY 1998; $135.45 million in FY 1999; and $141.05 million in FY 2000. Total authorized HHS appropriation: $567 million.

The National Community Economic Partnership Act Provisions

- Community Economic Partnership Investment Funds -- This new program provides nonrefundable lines of credit (of up to $2 million per applicant) to community development corporations to establish, maintain, or expand revolving loan funds that are used to finance projects offering business and employment opportunities for low-income, unemployed, or underemployed people and to improve the quality of life in low-income urban and rural areas. The applicants, who will compete competitively, must be community development corporations with detailed knowledge of the target area and previous successful experience. Local sources must provide 50 percent of the matching requirement. See below for authorized appropriations.

- Community Development Corporation Improvement Grants -- In this new program grants will be awarded to community development corporations to upgrade their management and operating capacity and to enhance the resources available to enable such corporations to increase their community

development activities. Skill enhancement grants will improve the business management and development skills of people managing such corporations. Operating grants will support an administrative capacity for low-income, community economic development projects. Grants may also be awarded to establish, maintain, or expand revolving loan funds; to make or guarantee loans; or to make capital investments in new or expanding local businesses. Applicants must be community development corporations with a detailed knowledge of the target area.

Authorized appropriations for these programs are $45 million in FY 1996; $72 million in FY 1997; and $76.5 million for each of FY 1998 and FY 1999, with 60 percent of the funds appropriated in each fiscal year for Community Economic Partnership Investment Funds and 40 percent for Community Development Corporation Improvement grants. Total authorized HHS appropriation: $270 million.

The Ounce of Prevention Fund Provisions

- Ounce of Prevention Council -- Members of this new Council will include the Departments of Justice, HHS, Education, Labor, Agriculture, HUD, Treasury, and Interior, and the Office of National Drug Control Policy with the President designating a Chair. The Council will award grants for (1) summer and after-school (including weekend and holiday) education and recreation programs; (2) mentoring, tutoring, and other programs involving participation by adult role models; (3) programs assisting and promoting employability and job placement; and (4) prevention and treatment programs to reduce substance abuse, child abuse, and adolescent pregnancy, including outreach for at-risk families.

The Violent Crime Reduction Trust Fund Provisions

- Violent Crime Reduction Trust Fund -- This new fund in the Treasury would be established for savings realized from the implementation of the Federal Workforce Restructuring Act of 1994. Amounts to be transferred are $2.423 billion in FY 1995; $4.287 billion in FY 1996; $5 billion in FY 1997; $5.5 billion in FY 1998; $6.5 billion in FY 1999; and $6.5 billion in FY 2000. Total authorized transfer: $30.21 billion.

CRIME BILL PHONE REFERRAL LIST

If you receive a call about the Crime Bill which you cannot answer or do not wish to answer, it should be referred in accordance with the chart below. Information has been provided to the Response Center, OPA and OLA which should allow them to answer all of the routine questions, thus screening out about 90% of the calls coming into the Department.

PLEASE DO NOT REFER CALLS INITIALLY TO THE PEOPLE AT THE BOTTOM OF THE PAGE – that would defeat the purpose of having the routine calls handled by the Response Center, OPA and OLA. The contact people at the bottom of this page will assist others at DOJ with questions they may have and will take referrals from the Response Center, OPA and OLA when they need additional expertise or information beyond that available to them.

CALLS ABOUT CRIME BILL	C.O.P.S. Program	Other Grant Questions	Immigration	Other Crime Bill Issues
Press	Kent Markus 514-3008	Caroline Adelman 616-2771 Bert Brandenburg 616-0189	Ana Cobian 616-2765	Caroline Adelman 616-2771 Bert Brandenburg 616-0189
General Public	Response Center 307-1480 or (800) 421-6770	Response Center 307-1480 or (800) 421-6770	Joe Mancias 514-4817	Response Center 307-1480 or (800) 421-6770
Grant Applicants	Response Center 307-1480 or (800) 421-6770	Response Center 307-1480 or (800) 421-6770	Response Center 307-1480 or (800) 421-6770	N/A
Congress	Off. of Leg. Affairs 4-2141	Harri Kramer or Chris Rizzuto 307-0703	Off. of Leg. Affairs 4-2141	Off. of Leg. Affairs 4-2141

For further questions regarding:	Contact Person:
Alien incarceration grants	OJP Congressional Affairs @ 307-0703
Boot camp grants	Tom Albrecht @ 514-6236
Brady Bill/Criminal Record Improvements grants	Carol Kaplan @ 307-0759
C.O.P.S. grants	Kent Markus @ 514-3008
Drug courts grants	Tom Albrecht @ 514-6236
Firearms and assault weapons provisions	Bureau of A.T.F. @ 927-8500
Immigration provisions	Joe Mancias @ 514-4817
Ounce of Prevention program	John Wilson @ 307-5911
Police Corps provision	Kent Markus @ 514-3008
Victims of Crime provision	Carolyn Hightower @ 307-5948
Violence against women grants	Harri Kramer @ 307-0703
Other grant questions	OJP Congressional Affairs @ 307-0703
Other grant provisions NOT funded for FY 95	OJP Congressional Affairs @ 307-0703
Other non-grant questions	Joan Silverstein @ 514-6725

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994: IMPLICATIONS FOR VOCA

On September 13, 1994 President Clinton signed into law the Violent Crime Control and Law Enforcement Act of 1994. This comprehensive anti-crime legislation contains a number of victim related provisions including the following amendments to the Victims of Crime Act (VOCA), which are of particular interest to State VOCA victim assistance administrators. Each of these are presented below.

Allocation of Funds for Costs and Grants.

New VOCA Formula:

The new VOCA formula provides that the first $6.2 million deposited into the fund will be allocated to the U.S. Administrative Office of the Courts. The next $10 million is allocated to the Department of Health and Human Services for administration of Children Justice Act Grants. Of the remaining amounts, 48.5 percent will be awarded for victim compensation, 48.5 for victim assistance, and 3 percent for training and technical assistance, demonstration projects, and for services on behalf of Federal victims of crime.

For example, assuming deposits in the Fund total $175 million in FFY 1994, the allocation would be as follows:

Administrative Office of the Courts	$6.2 million
Children's Justice Act Grants	10.0 million
Victim Compensation Grants	77.0 million
Victim Assistance Grants	**77.0 million**
Demonstration, Training and Technical Assistance,and Federal Crime Victims	4.8 million
	$175 million

Unused Victim Compensation Funds:

Each year, VOCA grants to State victim compensation programs are based on 40 percent of the amount of State dollars paid out to crime victims during the preceding year. In FFY 1993, certified State payouts totaled $161,675,095. Thus, only $64,670,038 will be required for FFY 1995 compensation grant awards. However, based on the VOCA formula as set forth above, $77 million will be available for victim compensation grants. As a result, the remaining

$12,329,962 in VOCA victim compensation funds will be available for VOCA victim assistance grants in FFY 1995 for a total of $89,329,962, as provided in the following illustration:

FFY 1993 Certified State payouts from State Compensation programs	$161,675,095
x 40 percent (amount of VOCA grant)	64,670,038
Total roll-over for victim assistance	**$12,329,962**
FFY 1995 VOCA Victim Assistance Allocation (estimates $175 million available)	$77,000,000
Total available for victim assistance	**$89,329,962**

It is important to note that in FFY 1994 a total of $65,463,000 was available for VOCA victim assistance grants. If deposits in the Fund reach $175 million this year, funds available for FFY 1995 VOCA victim assistance grants will increase by 36 percent.

Fund Reserves:

The OVC Director may retain as a reserve any portion of the Fund that is in excess of 110 percent of the total amount deposited during the preceding fiscal year. The reserve may not exceed $20 million. In years in which deposits are high, this will allow the OVC Director to set aside a portion of the Fund for distribution in the event subsequent year's deposits are low. It is anticipated that this provision will enable OVC to counterbalance fluctuations in the Fund, thus promoting fiscal stability for victim services organizations.

Administrative Costs

For the first time since the inception of the VOCA victim assistance and compensation programs, States may now use up to 5 percent of their grant award for administrative costs. This provision will apply to FFY 1995 State VOCA victim assistance and compensation grants. Given the anticipated rise in funds available in FFY 1995, States will be able to use up to 5 percent of their VOCA grants for administrative costs, without suffering any reduction to subrecipients in program dollar spending. Prior to the issuance of FFY 1995 awards, OVC will issue Program Guidelines which will define conditions, limitations, and reporting requirements on the expenditure of administrative funds, if any.

Maintenance of Effort:

States receiving sums available for administrative purposes will certify that these sums will not be used to supplant State or local funds, but will be used to increase the amount of funds that would be made available, in the absence of Federal funds, for these purposes.

Crime bill is debated under a veto threat

ASSOCIATED PRESS

WASHINGTON – Under threat of a presidential veto, the House took up a GOP bill yesterday that would give $10 billion in crime-fighting money to state and local governments and end the program to put 100,000 new police on the street.

The final and most controversial of a six-part Republican package to rewrite last year's $30 billion anticrime law also would eliminate funds set aside in the 1994 law for after-school programs and other crime prevention programs.

Instead, state and local governments would receive block grants of $2 billion a year for five years to use as they wished to reduce crime and improve public safety. The GOP bill also would eliminate a 25 percent local match of federal funds.

President Clinton warned Congress in his Saturday radio address against playing "partisan politics with police." He said he would use the first veto of his presidency to stop "any effort to repeal or undermine the 100,000 police commitment. Period." Clinton pledged during his presidential campaign to put 100,000 more police on the street.

Attorney General Janet Reno, wearing a badge saying "100,000 Cops: Don't Go Back," was on Capitol Hill to rally opposition to the pending bill yesterday. She spent the morning lobbying Democratic and Republican members. "Congress must not move backward in the fight against crime," she said.

Republicans say their bill gives localities the flexibility to tailor anticrime programs to local needs.

"Washington simply doesn't have all the answers," said Rep. Martin Hoke, Republican of Ohio.

"This one-size-fits-all approach to crime control is completely wrong," he said, adding that the pending bill does allow spending for crime prevention as long as law enforcement officers are involved.

The 1994 law provided $8.8 billion in grants for new police over six years, of which $1.3 billion is being appropriated this year to put 17,000 more police on the beat.

It also budgeted $3.9 billion for school and job programs, programs to fight substance abuse, programs for midnight basketball, economic development, gang prevention and other crime prevention programs that would be eliminated as separate programs in the pending bill.

A final vote on the bill is planned today. All six crime bills must still be considered by the Senate.

The Republican majority last week won passage of five bills to alter the 1994 law by putting more money into prison construction, setting time limits for death row inmates to appeal, streamlining deportation of criminal aliens and making it easier for courts to use illegally obtained evidence.

The Boston Globe: February 14, 1995

Making It a Federal Case

Maybe bigger than the pervasive problem of crime itself, questions of jurisdiction and crime control are becoming important rallying points for state sovereignty.

Jon Felde and Donna Hunzeker

On Sept. 8, 1992, a Maryland mother was dragged to her death in a gruesome "carjacking" that jolted the nation. Such random violence in a typically safe Washington, D.C., suburb was particularly shocking to area residents. Capitol Hill was quick to respond: By Oct. 5, Congress had passed legislation making carjacking a federal offense punishable by up to life in prison. The bill had been introduced earlier that year by Congressman Charles Schumer of New York as part of broader legislation to curb auto theft.

But was congressional action necessary? While Congress was busy creating a new federal crime, Maryland officials charged and prosecuted two young men who had been arrested within hours of the carjacking. One defendant, a minor who was convicted as an adult, was sentenced to life in prison; the other, an adult, awaits trial in state court and if convicted faces a possible death sentence.

Making carjacking a federal offense exemplifies the contradictory national response to crime. The same Congress that cut poverty-related grants to state and local governments by more than 15 percent in the last decade finds it irresistible to be "tough on crime" by creating harsh penalties for a variety of crimes traditionally handled by states. Typically, this does little more than provide tougher sentences for what are already state crimes. It also tends to create great expectations in the public about government response to crime, and as such puts political pressure on states to mimic get-tough federal action.

Congressman Schumer, a principal apostle of federalization of crime, also has introduced legislation making it a federal offense to interfere with abortion facilities. This after filing of state charges against the accused murderer of physician David Gunn outside a Pensacola, Fla., abortion clinic. Congress is considering laws to make federal crimes of drive-by shootings and stalking and other domestic violence offenses. In recent years, it has become a federal crime to flee the state to avoid paying child support and to steal laboratory animals. To date, Congress has created laws covering more than 3,000 crimes.

The rationale for choosing crimes for federal jurisdiction seems to be the headlines and public fears rather than any recognizable void in state criminal codes. Virtually all states have laws that can be used to prosecute carjacking. Several states are considering and eight states have passed laws that fine-tune criminal codes to include carjacking or armed robbery of a motor vehicle. Similarly, almost all states now have specific

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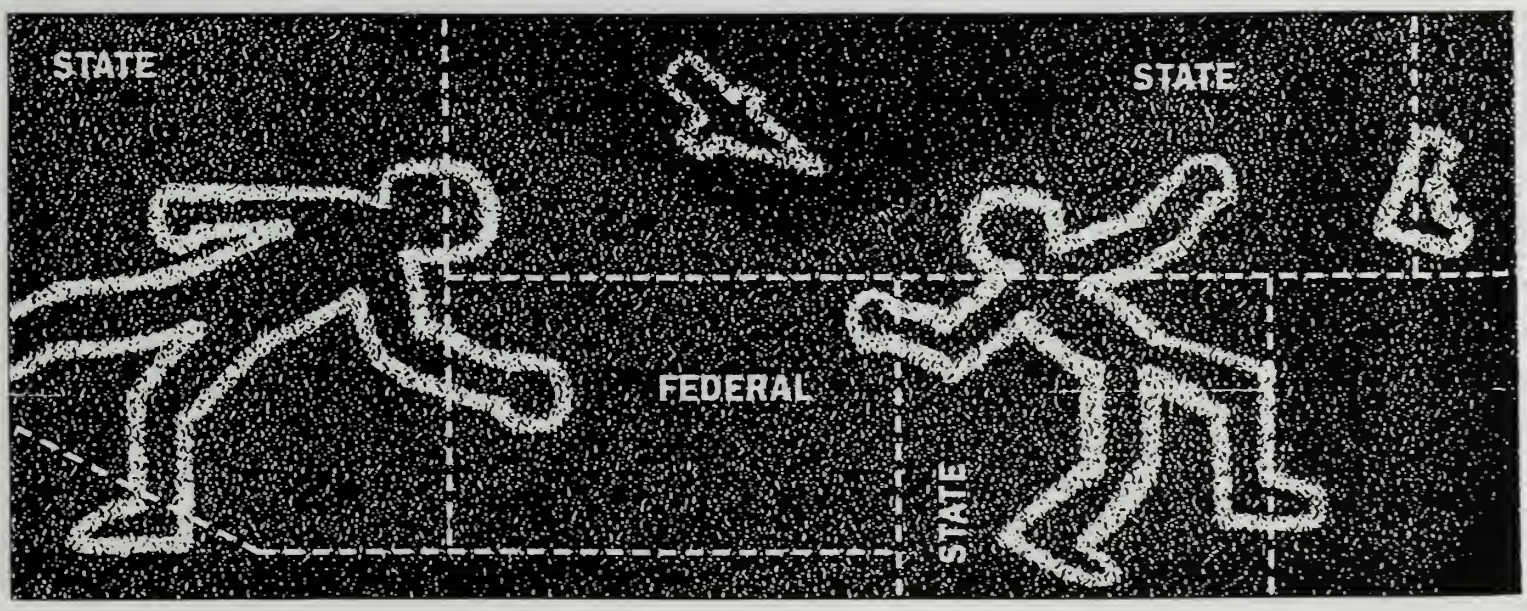


laws against stalking.

Despite congressional enthusiasm for jurisdiction over "street crimes," states are still responsible for adjudicating about 95 percent of all such crimes. Federal action, therefore, tends to have greater rhetorical impact than practical effect. But these congressional actions also show skepticism in Washington of the ability of state legislatures to respond adequately to crime.

Although many would agree that providing for public safety requires a vigorous response at all levels of government, some observers express concern that frequent application of criminal law in federal courts results not only in impotence of state criminal codes, but could perhaps eliminate distinctions between the laws of the states. Professor Daniel J. Meador of the University of Virginia School of Law suggests that "through a series of ad hoc decisions," we may be drifting toward federalization without making conscious policy choices about the appropriate degree of federal criminal jurisdiction. He warns that these incremental choices could be taking us in the direction of German federalism, where virtually all law is national, leaving only the administration to the local level.

The Constitution gives Congress power over offenses against the law of nations, crimes committed on the high seas, and crimes of counterfeiting and treason. Over the years, Congress has relied upon the "necessary and proper" clause of the Constitution to extend the reach of federal criminal jurisdiction. The mail fraud statutes, the Travel Act prohibiting bribery and extortion through interstate means, the Hobbs Act governing extortion and robbery, the anti-racketeering RICO Act and other federal laws have the broad effect of taking state crime cases and shifting them to the federal system.

Historically, the debate over the reach of a federal criminal code has included discussion of whether a federal law would be needed to prosecute crimes that occur on federal reservations, installations or properties. The Assimilation of Crimes Act provides that an offense committed on federal land can be prosecuted under state criminal law even if the offense is not a crime under federal law. The act was passed to avoid the necessity of a full federal criminal code, and to ensure that people committing offenses within the boundaries of a state are treated the same.

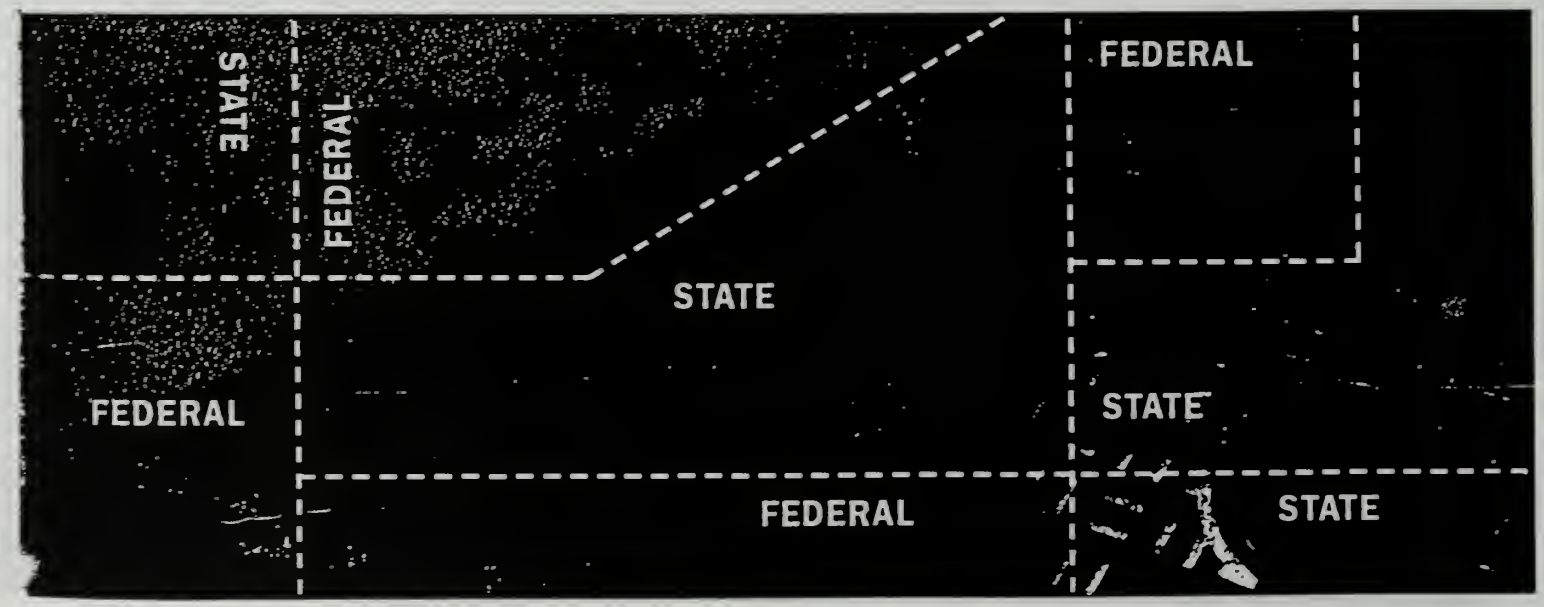
Tough federal minimum mandatory sentences for drug crimes have had little apparent impact on use, and many federal judges are outspoken in their opposition to them.

One of the most sweeping recent proposals in Washington would have federalized gun offenses and imposed the federal death penalty for homicides involving firearms. Although the amendments to the omnibus crime bill were later killed in conference committee, Senator Alfonse D'Amato of New York had overwhelming Senate support for them in the last session of Congress. Federal jurisdiction was justified by the presumption that the gun must have traveled in interstate commerce, which would apply to the vast majority of firearms and mean that nearly all gun-related offenses now handled by states could be prosecuted in federal court.

The Commerce Clause has been used to justify a number of federal crime actions, even though in 1971 the Supreme Court in Perez vs. United States laid aside any suggestion that jurisdiction of federal courts requires direct interstate activity. Most recently, the fact that automobiles involved in carjackings are transported in interstate commerce was discussed on Capitol Hill in passing last year's auto theft legislation.

The proposals to allow for federal prosecution of gun crimes sparked a strong reaction from U.S. Chief Justice William Rehnquist. He wrote: "This federalization of virtually all murders would have been inconsistent with long-accepted concepts of federalism. It would have swamped federal prosecutors, thus interfering with other federal criminal prosecution, and would have ensured that the already overburdened federal courts could not provide a timely forum for civil cases."

Attorney General Janet Reno also has



expressed concern that unchecked federalization of crime could hurt the ability of federal courts to carry out their traditional role of protecting constitutional and civil rights. Senator Joseph Biden, chair of the Senate Judiciary Committee, is similarly keen on that distinction. He recently told federal judges that the federalization debate should not focus on practicalities of court and prison burdens, but on principles defining federal interests. He said that the practice of "bootstrapping" federal jurisdiction simply on a showing that the mail or telephone is used in a crime "is a weak claim of federal jurisdiction."

But Biden justifies "violence against women" legislation that would create a federal civil rights cause of action for violent crimes "motivated by the victim's gender," which could include a variety of domestic violence cases. Federal courts are the appropriate forum, Biden says, "for enforcing national principles of equality." Biden further asserts that his proposal fills a gap left by states where "violence against women has been, and remains, marked by prejudice rather than reason." Similarly, Reno has defended proposals to make a federal offense of interference with abortion facilities, saying the anti-abortion movement is organized nationally and that its actions sometimes infringe on constitutional rights.

Congress has tended to have a broader national interest in crime. Former U.S. Attorney Jay Stephens, who has been both a local and a federal prosecutor, is among those who applaud aggressive federal intervention in drug crimes. Drug laws passed in 1965 and 1970 created considerable federal jurisdiction for drug-related crime, including possession, manufacture and distribution. Those laws were directly linked to a sense that the states had failed to arrest drug abuse.

By the 1980s, however, illegal drug use escalated so much that the president declared a "war on drugs," and the feds found their drug-crime jurisdiction becoming costly. Federal drug prosecutions have tripled over the past decade, and the number of assistant U.S. attorneys has more than doubled. And, largely because of mandatory minimum sentences under federal drug laws, federal prison populations have quadrupled since 1980. Federal criminal dockets continue to strangle the civil docket. U.S. District Judge Stanley Marcus says 85 percent of federal court trial time in South Florida is devoted to criminal cases, mostly involving drug crimes. The criminal docket for the federal district court for the District of Columbia has increased 50 percent in the last six years.

Tough federal minimum mandatory sentences for drug crimes have had little apparent impact on use, and many federal judges are outspoken in their opposition to them. In New York, senior U.S. District Judge Jack Weinstein, who has declined to take more drug cases, expresses dismay at what he sees as often harsh mandatory sentences. He cites, for example, a 46-month sentence he reluctantly imposed on a West African peasant woman and the devastating effect that will have on her children. "I need a rest from the oppressive sense of futility that these drug cases leave," he said.

> *"The debate must include a close examination of how the federal role can harmonize with state interests rather than erode state control."*

Federalizing crimes is just not the most efficient contribution to the drug- and weapon-laden crime fight, according to Representative Jeffrey Teitz of Rhode Island. He says the federal government's job is to reduce the flow of illegal drugs and firearms into the country and across state lines. "By diverting federal criminal justice resources from this responsibility to efforts traditionally handled by state and local government, Washington both weakens efforts at effective law enforcement and tramples traditional principles of federalism," Teitz says.

Indeed, tough-minded federal drug enforcement has entrapped more small-time dealers than it has drug kingpins, and drug policy experts note that street supplies of drugs like cocaine remain plentiful.

Drug laws illustrate of how actions at the federal level reverberate in states, which also have passed costly mandatory minimum drug sentences. Federal lawmakers are taking a closer look at the impact of mandatory minimum sentences on federal courts and prisons. U.S. Senator Orin Hatch of Utah recently questioned their use in a law review article, and the White House has signaled interest by reducing budgeting for prison construction. Indeed, a growing concern about federal encroachment in crime is being pushed mostly by fiscal considerations. As Richard Van Duizend of the State Justice Institute said, "The shortage of money has caused convergence of principle and pragmatism."

Even so, the impulse to find a federal interest in criminal acts is not an easy one to resist. Proposals like D'Amato's federal death penalty find support even among some state legislators who, frustrated by the absence of a capital punishment statute in their state, may accept federalization even at the expense of diminishing the power of their institution. Other lawmakers would be appalled that federal, concurrent jurisdiction means that the choice could be made by state and local prosecutors whether to seek federal prosecution, and therefore capital punishment, where there is no state-sanctioned death penalty.

Even for crimes without death-penalty implications, the options for prosecution created by federal, concurrent jurisdiction generally give considerable discretion to local prosecutors and police to defer to federal prosecutors if they choose. In doing so, they bypass state legislative authority for crime and justice. Taking cases to federal court also removes the community from the adjudication process. It shifts that responsibility from elected state prosecutors and state trial court judges, also elected or appointed from communities, to U.S. prosecutors who are appointed by the president of the United States. Federal prosecutors usually have more than a million people in their jurisdictions.

"By turning more and more prosecutions over to appointive federal prosecutors and lifetime appointed federal judges, prosecutors no longer have to answer to the public the way locally elected prosecutors and judges do," says Representative Mike Box of Alabama.

New York Senator Stephen Saland concurs. "Generally, crime is best fought at the local level, with local police who

know the community with local judges who reflect the standards of the community and with local understanding of which crimes most need the focus and resources of the community," he said.

Federal asset forfeiture law offers further incentives for state and local law enforcement to look to federal prosecution. A law passed in 1986 provides that proceeds from asset forfeiture claims initiated by the federal government are apportioned among the law enforcement agencies that assisted in the prosecution. Local law enforcement, therefore, has an incentive to turn over the case to federal prosecutors in order to get a direct subsidy for their operations without any oversight, and in spite of any state laws that might impose a different distribution scheme for seized assets.

To a certain extent, local prosecutors are becoming more sophisticated. For instance, a recent conflict between federal and state prosecutors resulted in the Manhattan district attorney winning the right to prosecute Washington, D.C., lawyers Robert Altman and Clark Clifford in the Bank of Commerce and Credit International (BCCI) scandal. In describing the Department of Justice's decision to drop charges in deference to the local New York prosecutor, The Washington Post said: "One lesson of the long-running BCCI scandal may be that the federal government has difficulty in investigating a complex, international banking scandal." A recent report of the National Institute of Justice concludes local prosecutors are taking on a heavier load of corporate crime.

Adding to resources for local prosecutors is one way to forestall further federal intervention in crimes traditionally handled by states and localities. Others would add that states need to give undivided attention to improving their court systems. Stephens notes that the federal courts have in recent years made significant advances in more efficient administration of justice. One of the most significant judicial improvements in the federal criminal system has been the passage of the Speedy Trial Act and the provisions that tighten pretrial release. Defendants who are detained "are not motivated to string out the case, and early resolution helps clear out the docket." And the Armed Career Criminal Act adopted by Congress offers broad powers to detain defendants with previous state records and upon conviction to apply a mandatory 15-year term in federal prison.

But while the stature of state judicial systems may be deemed subpar by some, law enforcement may in fact seek federal prosecution of street crime to skirt state laws that have been created to offer additional protections to defendants. U.S. Attorney General Reno, a former state prosecutor in Florida, has explained that she took cases to federal prosecutors in order to obtain the advantages of less restrictive federal rules of evidence.

"Crime is best fought at the local level, with local police who know the community, with local judges who reflect the standards of the community and with local understanding of which crimes most need the focus and resources of the community."

Alabama's Box points out that the criminal defendant does not have the opportunity to choose forums for trial. "The existence of federal concurrent jurisdiction allows prosecutors to do a little forum shopping. It's unfair where the defendant does not have a similar tool."

Another consequence of expanding the number of concurrent federal crimes is the effect that double prosecution has on defendants' protection against double jeopardy. In 1959, the Supreme Court let stand a robbery conviction in state court that had been brought after the defendant in a bank robbery was acquitted in federal court. The legal basis for the Court's decision, which still prevails, is that the offender has offended two sovereigns. The debate over double jeopardy resurfaced recently with the trial of the Los Angeles police officers convicted of violating the rights of Rodney King. This case provoked particular difficulty for civil libertarians, who endorsed retrying the police defendants acquitted by the state court, but who generally oppose the concept of dual sovereignty in criminal cases.

Defining the federal interest is perhaps the first step in determining how and where to draw the line on federalization of crime. "The debate must include a close examination of how the federal role can harmonize with state interests rather than erode state control," says Representative Jeffords of Rhode Island.

Biden and others have favored the approach taken in U.S. Senator William Cohen's 1992 law that directs the National Institute of Justice to assist states by drafting model stalking legislation, rather than claiming jurisdiction for those crimes. As a result of Cohen's legislation, a consortium of organizations is examining state stalking laws, monitoring case law, and preparing model legislation and recommendations for states to ensure that their stalking laws are constitutional and therefore enforceable.

Determining what the federal interest in crime should be will require distinguishing if uniformity of treatment is more important than permitting or encouraging diversity as a strength of federalism. States will have to persuade Congress that a mere substitution of its judgment for their judgment is an inadequate rationale for expanding the federal role, according to Senator Saland. "I would urge [federal policymakers] to utilize great care and an extraordinary prudence in determining exactly what criminal justice-related matters call out for proper involvement and action at the federal level," he says.

In order to improve crime control without causing state powers to atrophy, state legislatures and Congress need to communicate, as do state and federal judiciaries. States may be surprised to find common ground with federal courts that have mandated state action in everything from prison conditions to school desegregation. This state-federal dialogue requires overcoming reluctance, especially that of the federal judiciary, to test the limits of that great divide we call separation of powers. Federalism has as its core the division of power to preserve liberty and self-determination.

Oklahoma Senator Vicki Miles-LaGrange says that despite federal encroachment, national interest in suppressing crime requires a grassroots effort. "Ultimately, it is action at the community level that will make a difference in the fight against crime," she says. State legislatures should see criminal justice as an opportunity to be responsive to local needs, and as a rallying point in their principled stand for state sovereignty.

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Workshop C

Sexual Assault:
Current Legal and Health Issues

Sexual Assault: Current Legal and Health Issues

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Somatic Consequences of Violence Against Women

Mary P. Koss, PhD, Lynette Heslet, RN, BS

The rapidly growing literature on the somatic, nonpsychiatric effects of violence on women's health is reviewed, including rape, battery, and the adult consequences of child sexual abuse. The sequelae of these victimizations are summarized with consideration of acute effects (genital and nongenital injuries, sexually transmitted disease, and pregnancy), late consequences (chronic pelvic pain and other forms of chronic pain, gastrointestinal symptoms, premenstrual symptoms, and negative health behaviors), and long-term increases in the use of medical services. A recurrent theme across the literature is that the medical treatment of all types of victimized women can be improved by providing attention to the underlying cause of their symptoms. Achievement of this goal requires that physicians identify victimization history and provide access to appropriate support services. Because all forms of violence against women are prevalent among primary care populations, and victimization is clearly linked to health, health care providers cannot afford to miss this relevant history. The article concludes with suggestions for fostering and responding to disclosures of victimization. *(Arch Fam Med. 1992;1:53-59)*

Victimization is a diagnosis that physicians are increasingly expected to make as frontline health care providers.[1-4] Because of their high level of public contact and the decreased stigma compared with mental health providers, primary care physicians are an important resource for women victimized by sexual and physical violence, including rape, domestic violence, and the adulthood sequelae of sexual abuse in childhood.[5] Until recently, the medical literature had focused exclusively on forensic issues and acute treatment.[6-10] Consideration of somatic consequences that extended beyond the emergency period was limited to the psychological aftereffects. Now, a rapidly growing body of research associates victimization by violence to physical illnesses. This article provides a review of the somatic outcomes, including acute conditions, delayed consequences, and related changes in longitudinal medical care usage. The primary sources for this review were obtained through computer-assisted literature searches using MEDLINE and PSYLIT databases through 1991. Although men are victims too, the literature reviewed focuses almost exclusively on women. The scope of violence against women is enormous[11-26]: one in five women has been a victim of completed rape[19-23]; one in four women has been physically battered[24]; and 15% to 62% of women recall at least one incident of childhood sexual abuse before age 18 years.[14-18]

Women are much more likely than men to be the targets of rape, battery, and

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child abuse. Forty-two percent more episodes of severe battering are sustained by women[12]; nine of 10 rape victims are women, according to the National Crime Victimization Survey[11]; and 78% of the substantiated cases of child sexual abuse involve girls.[13]

VICTIMIZATION-INDUCED CHANGES IN MEDICAL UTILIZATION

Victimized women compared with those whose lives are untouched by violence perceive their health less favorably, experience more symptoms across virtually all body systems (except skin and eye), and report higher levels of injurious health behaviors such as smoking or failure to use seat belts.[27] These findings, and the fact that all forms of intimate-perpetrated violence are more likely to involve multiple incidents across time, increase the potential for victims to visit their physician repeatedly.[28] Considerable evidence substantiates increased medical utilization by victimized women[27,29-36]:

1. Twenty-two percent of women raped or molested in childhood visited a physician 10 or more times a year compared with 6% of nonvictimized women.[33]

2. Physician visits were twice as high among women raped and assaulted in adulthood compared with nonvictimized women (6.9 vs 3.5 visits per year).[27]

3. Medical expenses were 2.5 times higher among severely victimized women compared with nonvictimized women ($401 vs $161).[27]

4. Victimization severity was the most powerful predictor of total yearly physician visits and outpatient costs.[27]

5. The biggest increases in medical utilization occurred in the second year following victimization.[27]

In response to financial implications of these data, Robert McAfee, MD, vice chairman of the American Medical Association Board of Trustees, concluded, "In addition to the terrible human toll, violence strains the resources of our health care system. . . . When we are being constantly criticized about health care costs, this is one of the factors driving those costs up" (*Am Med News*. March 4, 1991:34).

ACUTE MEDICAL CONSEQUENCES OF VIOLENCE

Although victimized women seek care in a variety of settings, for many the emergency department is the typical point of entry into the health care system.[6,37] Emergency treatment protocols of battery and rape victims delineate physicians' responsibilities, including psychological and somatic issues.[6-10] The medical treatment of battery includes identification and treatment of violence-linked injuries, elicitation of the details of abusive relationships to foster self-identity as a domestic violence victim, creation in the patient's mind of a realistic view of the severity and danger of her living situation, exploration of treatment options, and documentation in the medical record of the intervention to promote future medical provider's ability to provide continuity of care.[6,38,39] The physician's responsibility in treating rape victims is to provide prompt treatment of physical injuries, prevention of sexually transmitted disease (STD), prophylaxis to prevent pregnancy, psychological support with arrangement for follow-up counseling, and forensic documentation.[7-10,40,41]

Nongenital Injuries

Domestic violence accounts for more injuries than automobile accidents, muggings, and rapes combined; injuries necessitating surgical intervention are most often perpetrated by male intimates.[39] Physical injury patterns of domestic violence generally involve contusions or minor lacerations to the face, head, neck, breast, or abdomen, and are distinguished from unintentional injuries, which generally involve the periphery of the body.[41] Compared with victims of accidental injuries, victims of domestic violence are more likely to have injuries to the breast, chest, or abdomen[42]; multiple injuries to various parts of the body[42]; and past injuries, including old fractures and bruises, in various stages of healing.[43]

Battery is rarely a presenting complaint; more common clinical presentations include anxiety, depression, chemical dependency, chronic headaches, abdominal pain, complaints of sexual dysfunction, recurrent vaginal infections, joint pain, muscle pain, sleeping and eating disorders, and suicide attempts.[38,39,41,44] Some writers have suggested that battery may be the most important precipitant of female suicides yet identified.[41] Estimates are that one of four suicide attempts by women is preceded by abuse. Among black women, the figure may be so high that one in two suicide attempts follows domestic violence. However, the data for these conclusions are few and bear replication in other centers. Domestic violence should be suspected whenever new injuries are seen in the presence of vague complaints and evidence of old injuries and whenever risk factors are present, including alcohol or drug dependence in the partner, violence in the family of origin, living in poverty, and unemployment.[45]

Physical injuries are also seen in some 40% of rape victims.[46,47] These include minor and major abrasions or contusions anatomically centered about the head, neck, and face (50%), and involving the extremities (33%) or the trunk region (15%).[46] Severe injuries consist of equal numbers of multiple traumas, major fractures, and major lacerations.[46] Physical symptoms include the direct effects of trauma, such as general soreness, bruising, and irritation.[48] Skeletal muscle tension may be manifested in tension headaches, fatigue, and sleep pattern disturbances following injury. Gastrointestinal irritability is another presenting problem that encompasses symptoms of stomach pains, nausea, decreased appetite, and inability to taste food.

Genital Injuries

In patients presenting with vaginal hemorrhage, bleeding should be assumed to be a complication of pregnancy until proven otherwise.[49] Included in the full differential diagnosis is the possibility that the bleeding is rape-induced. The difficulty documenting genital findings in rape victims by gross visualization is well known. The use of the colposcope may significantly increase reliability.[50] Genital injury patterns include the following:

1. Half of the rape victims seen in trauma centers have vaginal and perineal trauma (from microscopic to major), including vulvar contusions and hymenal and vaginal lacerations.[46]

2. Fifteen percent of victims have significant vaginal tears; 1% require surgical repair of the laceration.[46,51]

3. Genital injuries are more likely to occur in elderly victims.[36]

One third of rapes include oral or anal penetration in addition to vaginal contact.[46,47] Most anorectal injuries present as nonperforating mucosal lacerations, disruptions of anal sphincters, retained foreign bodies, and transmural perforations of the rectosigmoid, and are produced by penile penetration as well as introduction of digits, hands, blunt objects, or foreign bodies into the rectum.[52,53]

Sexually Transmitted Diseases

Sexually transmitted diseases have been estimated to occur as a result of rape in 3.6% to 30% of victims, and can be contracted from any of 15 different organisms.[40,54-57] *Neisseria gonorrhoeae*, *Chlamydia trachomatis*, trichomonal infections, and syphilis are most commonly seen; however, hepatitis B and human immunodeficiency virus (HIV) infection are possible life-threatening consequences of sexual assault.[57] Untreated STDs may result in pelvic inflammatory disease. Testing for STD should be performed within 24 hours and prophylaxis should be given within 72 hours.[58,59] Evaluation and treatment guidelines are available.[58,59] The Centers for Disease Control evaluation guidelines for rape victims include screening for *N gonorrhoeae* and *C trachomatis* from any site of penetration or attempted penetration; collection of blood for a serologic test for syphilis; storage of the specimen for delayed testing for HIV and hepatitis B infection; examination of vaginal specimens for tunica vaginalis and for evidence of bacterial vaginosis; pregnancy testing; follow-up evaluation at 14 to 21 days to repeat studies other than those for syphilis and viral STD; and follow-up evaluation at 8 to 12 weeks to repeat serologic studies and screen for hepatitis B and/or HIV.[58]

The risk of contracting HIV during sexual assault is currently unknown, but cases have been reported in women with no other risk factors except rape.[57,60-62] The frequency of HIV transmission by rape is certainly less than for other routes of transmission; however, the assumption is premature that HIV transmission is minimal.[63] Physicians need to address the issue of possible HIV transmission at the initial contact and provide appropriate sequential testing. Within 3 months of rape, 26% of victims spontaneously mentioned acquired immunodeficiency syndrome as a concern; for half, it was their primary concern in the immediate period after the rape.[64] Current indications suggest the HIV antibodies develop within 6 months in 95% of the individuals who become infected after exposure.[58,59]

According to a recent national telephone survey that included rape victims who sought medical care, pregnancy testing or prophylaxis was not received by 60% of rape victims, and no information or testing for exposure to HIV was reported by 73% of victims.[26] These retrospective data would have included some rapes that occurred before the present era of acquired immunodeficiency syndrome awareness, and it is possible that physicians may have skipped pregnancy testing in certain cases, such as in premenarchal and postmenopausal victims. It is more difficult to rationalize the absence of information or testing for STDs that was reported by 39% of victims.[26]

Pregnancy

Five percent of rape victims become pregnant.[23,40] Therefore, counseling about the possibility of pregnancy, postcoital contraception, and termination of pregnancy should be discussed with victims of rape. Several strategies of pregnancy prophylaxis exist, including offering no immediate treatment, performing pregnancy testing if the next menses is missed, or repeated serum pregnancy testing 1 week after the assault. All postcoital interventions for prevention of pregnancy are ineffective after 72 hours.[40] Anticonception medication regimens consist of initially ingesting two tablets of ethinyl estradiol and norgestrel, followed by two tablets in 12 hours.[40] The physician should inform the patient of the 1% failure rate of prophylaxis and possible complications of medical intervention.

Some rape victims are already pregnant when assaulted. Examinations of rape victims at a large metropolitan hospital revealed rates of vulvar (95%), oral (27%), and anal (6%) penetration for pregnant victims that were comparable with the pattern in nonpregnant women.[65] The site of trauma did not vary with gestational age, with injuries seen more often in nonpregnant victims. No spontaneous abortions, deliveries, preterm rupture of membranes, or premature detachment of the placenta occurred within 4 weeks of the rape.[65] Because this study lacked a comparison sample, it was not possible to draw conclusions about the health of the newborns.

Pregnancy is a risk factor for the initiation or escalation of physical abuse.[66-72]

1. Sixty percent of pregnant women sustain some degree of physical aggression.[66]

2. The abdomen is targeted twice

as frequently in pregnant women as in nonpregnant victims.[45]

3. Fifteen percent of a national sample were battered during the first half of pregnancy and 17% were battered during the last half.[68]

4. Eight percent of a random sample of public and private hospitals reported violence during the current pregnancy.[69]

5. At initial prenatal visits, 4% of obstetric patients at a university hospital reported that physical abuse occurred during their current pregnancy.[70]

6. Women with a history of battery are three times as likely to be injured during pregnancy than nonbattered women.[30,69,70]

Women who were battered while pregnant were attacked on the head and neck (57%); breasts, abdomen, and genitals (20%); and arms, buttocks, back, and legs (22%). These assaults have been associated with preterm labor, premature rupture of the membranes, placental separation, antepartum hemorrhage, fetal fractures, and rupture of the uterus, liver, or spleen.[71] Direct trauma to the abdomen also may increase the risk of adverse outcomes for the fetus.[45] Battered women experience more negative pregnancy outcomes, including miscarriages, stillbirths, and low-birth-weight newborns.[66,67,69,71] Among 589 women at public and private hospitals interviewed about battery post partum, the rate of low-birth-weight newborns was 13% in women who had been beaten compared with 7% in nonbattered women.[72] The differences were more pronounced among private hospital patients, but as the samples were not representative, the results must be replicated at other sites. In response to these findings, the Surgeon General has recommended that all pregnant women be examined for battery as part of routine prenatal assessments.[1]

LATE COMPLICATIONS OF VICTIMIZATION

Recent studies have documented a range of long-term problems that are diagnosed more frequently among women with a history of victimization.

Chronic Pelvic Pain

Of the 650 000 hysterectomies performed annually, an estimated 78 000 are performed for chronic pelvic pain.[73] The prevalence of physical and sexual abuse is elevated among women with chronic pelvic pain whether with or without demonstrated disease.[73-79]

1. Sixty-four percent of women who had undergone laparoscopy for pelvic pain had histories of child sexual abuse compared with 23% among women who had undergone the procedure for bilateral tubal ligation or infertility.[74]

2. Forty-eight percent of women who had laparoscopy for pelvic pain had histories of rape compared with 13% of those without pain who had undergone the procedure.[74]

3. Forty-eight percent of patients with chronic pain reported sexual abuse compared with 7% among age-matched pain-free controls.[73]

4. Sixty-seven percent of women with pelvic pain without demonstrable pathologic characteristics experienced sexual abuse compared with 28% among those with somatic causes of their pain.[79]

5. Negative postoperative sequelae of hysterectomy are increased in women with victimization histories.[80]

Other Chronic Pain Syndromes

An association between various forms of victimization and an array of chronic pain disorders, including headache, back pain, facial pain, temporomandibular joint, and bruxism, has been described in the clinical literature.[30,81,82] Among patients treated at multidisciplinary pain centers:

1. Fifty-three percent of 151 patients with pain were either physically and/or sexually victimized; 90% of the victimizations occurred in adulthood; the average duration of abuse was 12 years.[82]

2. Sixty-six percent of 30 women examined for chronic headaches were either physically or sexually victimized; the average duration of abuse was 8 years.[83]

3. Victimized patients were more likely to experience daily problems, hospitalizations, surgical procedures, and onset of headaches after age 20 years.[83]

4. Violence predated the chronic pain in all cases.[83]

Premenstrual Syndrome

Another gynecologic disorder associated with victimization is premenstrual syndrome. Premenstrual syndrome is heralded by changes that occur regularly during the luteal phase, including cognitive, affective, behavioral, and somatic symptoms.[84,85] A history of child sexual abuse and rape was reported by 40% of 174 consecutive patients with premenstrual complaints.[84]

Gastrointestinal Symptoms

The term *functional gastrointestinal disorders* describes numerous symptoms throughout the length of the gastrointestinal tract, including irritable bowel syndrome, nonulcer dyspepsia, and chronic abdominal pain.[34,86] Irritable bowel syndrome is defined as alternating bowel function, abdominal pain, diarrhea, or constipation.[87] There appears to be a large overlap between patients with irritable bowel and chronic pelvic pain. Symptoms consistent with irritable bowel syndrome are evident in more than 60% of gynecologic referrals for chronic pelvic pain.[88] As in pelvic pain, victimization histories are common in patients with irritable bowel syndrome:

1. Forty-four percent of patients in a university-based gastroenterology clinic reported a history of sexual or physical victimization during childhood or adulthood.[34]

2. Two thirds of the gastrointestinal complaints in these patients were medically explained; one third were judged to be of functional origin.[34]

3. More extensive victimization histories were associated with

functional origin and greater pain symptoms.[34]

Negative Health Behaviors

A history of victimization by violence is associated with several negative health behaviors that can have life-threatening consequences.[89-98] Unusually high rates of sexual victimization have been found among patients with eating disorders, of whom 58% had been sexually abused before age 15 years[89]; bulimic women, of whom 23% had been raped, 23% had been battered, 29% had been sexually abused as children, and 29% were physically abused as children (categories not mutually exclusive)[90,91]; chemically dependent women, in whom the prevalence of victimization histories among alcoholic women ranges from 34% to 75%[93,97]; and women with at least one risk factor for acquiring or transmitting HIV, of whom 46% had histories of sexual victimization.[98]

PROCESSES BY WHICH VICTIMIZATION MAY AFFECT HEALTH

Although the high prevalence of victimized patients among study samples could reflect a concentration of these difficult cases into the tertiary care centers,[34] the evidence suggests a high prevalence of victimization in primary care samples as well.[23] In a recent survey of 2291 women patients enrolled in a health maintenance organization, only 43.2% were nonvictimized; 23.9% had experienced noncontact crime victimization, 11.6% had been physically assaulted, 13.9% had been raped, and 7.4% had been both raped and assaulted in their lifetimes.[23] In 1 year, 77 of 1000 women were victimized by violent crime.[23] Victimized women sought medical care more frequently for a variety of chronic symptoms, some medically explained and some diagnosed as functional or psychogenic. The mechanisms by which these symptoms are created are not yet known, but multiple theories exist about possible routes by which violence could affect health, including stress-induced lowering of resistance[99,100]; enduring changes in health habits initiated to cope with trauma[100,101]; as yet undocumented physical damage secondary to the violence; chronic overarousal due to posttraumatic stress disorder[102]; heightened focus on internal sensations[103,104]; misattributions about the significance of symptoms, including normal sensations and the physiologic concomitants of emotional distress[100]; and interaction with biomedically focused health care system.[105]

FOSTERING DISCLOSURE OF VICTIMIZATION

In most cases, physicians focus on treatment of the physical injuries and overlook the underlying cause.[42] Patients rarely volunteer and physicians seldom ask about a history of physical or sexual violence.[105,106] Failure of physicians to screen for victimization has at least two negative health consequences. First, patients are left at continuing risk. Intimate violence in particular is repetitive and cross-generational. Ignoring it may produce a patient who will return repeatedly for multiple problems and may enhance the potential of other members of the patient's family to become future victims and/or patients. Second, physical problems cannot be resolved without dealing with the underlying cause. When physicians fail to question their patients about violence, it communicates lack of permission to discuss these issues in the medical setting. If psychosocial variables are ignored in diagnosis, somatic complaints may be inaccurately and inappropriately diagnosed and treated exclusively as organic pathologic conditions.[107] By ignoring the psychosocial context in which the symptoms arise, health care providers are potentially responsible for entrenching misattributions about the significance and meaning of the physical sensations.

Patients are often willing to discuss victimization experiences if asked. Those who delay seeking treatment and provide misleading histories do so because of embarrassment, fear of public humiliation, and social stigma.[40,47] For most individuals, the process of labeling oneself a victim is difficult and becomes especially complicated when the events have occurred within the family setting or if the actions were ambiguous.[108] The implications for medical practitioners are twofold. First, because of the struggle to avoid the devaluation inherent in being a victim, women who have suffered physical or sexual abuse infrequently use words like rape, incest, molestation, child abuse, battery, wife beating, or domestic violence to label what has happened to them. Practitioners may be more successful in detecting violence if they simply describe behaviors, stay away from loaded terms, and avoid professional jargon. Second, recognition needs to be made of the possibility that the family member accompanying the patient is the perpetrator. Screening for violence whether in person or by checklist must take place under circumstances that provide the safety to implicate intimates. By routinely asking a few simple screening questions, practitioners offer their patients the opportunity to confide in a caring person. Many victims have never told anyone about their experiences.[23] However, the simple act of disclosing is associated with positive changes in indicators of immune response.[109] In response to confidences shared, practitioners need to validate the women's experience. Women who assert charges of abuse are often met with questioning about their credibility and culpability. The single most helpful response that can be made to a confidant about victimization is validation of the individual's experiences.[4,38,110] When appropriate, health care providers can also refer to mental health professionals or trauma-specific resources in the community. Currently, physicians everywhere are under enormous pressure to handle efficiently a large volume of patients without lowering standards of care. Identification of patients with a history of victimization reduces the potential of

negative health sequelae, promotes more efficient use of resources, and improves patient well-being.

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HIV Testing, Counseling, and Prophylaxis After Sexual Assault

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THE IMPACT of possible infection with the human immunodeficiency virus (HIV) in survivors of sexual assault[1] has received little attention in the first decade of the acquired immunodeficiency syndrome (AIDS) epidemic. This may be due in part to society's conflicting attitudes and beliefs concerning sexually transmitted diseases (STDs), AIDS, and rape. The meaning of STDs historically has been shaped by powerful social and cultural constructions. These diseases often have been viewed as the result of socially unacceptable sexuality, a morally based failure of impulse control by individuals, and fair punishment for transgressing societal norms.[2,3] Similar moralistic reasoning often underlies the conventional wisdom concerning rape and AIDS. Rape, a violent crime where sex is used as a weapon, has been seen as the result of inappropriate seductive behavior or a sudden change of heart on the part of the victim who initially had consented to a sexual encounter.[4] Similarly, some in our culture view AIDS as a just consequence for the "sins" of homosexuality, promiscuity, and substance abuse.[5]

Those who offer less judgmental and culturally determined formulations concerning STDs, AIDS, and rape may argue that consideration of the impact of HIV infection in sexual assault has merited less attention because of the relatively low risk of its transmission during any individual encounter.[6] However, other low-level risks have received considerable attention during the AIDS epidemic, most notably HIV transmission from patients to health care workers and health care workers to patients in the course of invasive procedures.[7-9] Detailed policies and procedures have been instituted in attempts to further reduce these minimal risks.[10-12] In contrast, few policies and protocols exist to lessen the risk and psychological burdens that possible HIV infection places on survivors of sexual assault.

This article presents the proposals of the Working Group on HIV Testing, Counseling, and Prophylaxis After Sexual Assault for the development of policies and principles of clinical intervention in the care of assault survivors. The recommendations made for the counseling, testing, and treatment of survivors are intended to guide health care providers, sexual assault counselors, and allied service professionals in providing compassionate and effective treatment. This article also examines the ethical, public health, and legal justifications for a policy of limited compulsory testing of persons accused of sexual assault.[2]

ASSESSMENT OF RISK

Rape is a crime that is often hidden, underrecognized, underreported, and underdocumented.[13] The National Women's Study estimated there were 683 000 forcible rapes of adult women in 1991; 22% of rapes were by strangers[14]; and 16% were reported to the police.[15] Significant numbers of adolescents and children are the victims of sexual assaults, often involving multiple encounters.[16,17] The US Department of Justice conservatively estimated that there were 10 000 sexual assaults of males aged 12 years and older in the United States in 1990.[18,19] Males in correctional facilities may be particularly likely to experience sexual assault, which is often not reported to the authorities.[20]

The level of risk of contracting HIV for a survivor depends on the serological and clinical status of the assailant, the type of sexual assault, and the frequency of assaults. While persons with HIV infection who have committed sexual assaults have been documented in the medical literature,[21] the seroprevalence of the population of persons who commit sexual assault is difficult to assess. High variability in infection rates of the same risk groups at different geographical sites has been reported.[17,22-25] The incidence of AIDS is approximately 14 times higher in state and federal correctional systems (202 cases per 100 000 prisoners) than in the US population (14.65 cases per 100 000 population).[26] However, there are insufficient data to determine whether sex offenders have different rates of HIV infection than other offenders.

The type of sexual exposure (vaginal, anal, or oral), the associated trauma, the presence of other STDs, and the exposure to sexual secretions and/or blood are relevant in assessing the risk of HIV transmission. Approximately 80% of survivors in the National Women's Study[15] reported either vaginal or anal penetration. Human immunodeficiency virus is relatively inefficiently transmitted via sexual intercourse compared with other STDs, such as gonorrhea,[27,28] syphilis,[29] or hepatitis B,[30] which may have per-contact infectivity rates as high as 25%. Two cohort studies[31,32] estimated the per-contact HIV infectivity rate from male to female via penile-vaginal intercourse at less than two per 1000 contacts, but others have reported higher rates.[33,34] The per-contact infectivity rate for receptive anal intercourse between homosexual partners is

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estimated to be as high as two per 100 contacts.[35] The presence of lesions or blood from violent assaults may significantly increase the probability of transmission.[41] Accurate estimates of per-contact risk for transmission of HIV and other STDs are particularly difficult because researchers cannot practically and ethically test sexual partners after each exposure. Therefore, estimates of risk of transmission are based on self-reported data concerning multiple sexual events over time.

The risk of HIV transmission is highly variable, with some individuals infected after the first encounter, while others remain uninfected after hundreds of unprotected sexual contacts.[24] In some cases, high-efficiency HIV transmitters have been identified.[37,38] Factors that may affect the infectiousness of an assailant include the clinical stage of HIV infection, with recently infected individuals and those at late stages being the most infectious to their partners.[39-43] Genital ulcerative STDs also have been associated with increased infectiousness, as well as susceptibility to HIV.[44,45] Another salient variable is the virulence of the viral strain,[46] but the ability to measure this parameter and correlate it with infectiousness is still rudimentary. Receptive oral exposure to ejaculate also has been associated with HIV seroconversion in very rare cases.[47,48]

Given the multiplicity of factors, we conservatively estimate the risk of HIV transmission from a sexual assault involving anal or vaginal penetration and exposure to ejaculate from an HIV-infected assailant to be in the same range as for receptive anal and penile-vaginal intercourse—greater than two per 1000 contacts. The actual per-contact risk would be higher if other factors were present, such as violence producing trauma and blood exposure or the presence of inflammatory or ulcerative STDs.

PHYSICAL AND PSYCHOLOGICAL BURDENS OF SEXUAL ASSAULT

Extensive clinical observation and research show that sexual assault causes grave consequences for its survivors. These include persistent fear, loss of self-esteem, and problems of relationship, social adjustment, and sexual dysfunction. Psychiatric symptoms can include depression, social phobia, obsessive-compulsive behavior, and anxiety.[15,49,50] The chronic psychological effects of sexual assault initially were described as the rape trauma syndrome[51] and now are accepted as a special example of posttraumatic stress disorder.[52]

Survivors frequently worry about contracting an STD from their assailants. Forty percent of the survivors in the National Women's Study[15] said they feared contracting HIV infection as a result of the rape. The fear of contracting an STD, particularly HIV infection, following rape appears to be a significant stressor adding to the incidence, prevalence, and severity of psychiatric morbidity in rape survivors. The emotional trauma of sexual assault, including the fear of STDs, frequently is experienced by persons closest to the survivor, particularly sexual partners.[53-56]

COUNSELING, TESTING, AND PROPHYLAXIS FOR SURVIVORS

Counseling of Survivors

There are approximately 8400 victim service programs in the United States based in police departments, prosecutors' offices, correctional settings, schools, community-based organizations, hospitals, domestic violence shelters, and rape crisis centers.[57] In practice, however, not all survivors of sexual assault receive information regarding HIV from a victim service program. The National Women's Study[15] found that fewer than 20% of survivors had a medical examination following their assault, and of those who were examined, 73% did not receive information about HIV infection in conjunction with the examination.

Ideally, all survivors of sexual assault would receive a medical examination and information and counseling about possible exposures to a full range of communicable diseases, the risk of pregnancy, and other possible sequelae of the assault. In most but not all programs, it is important that victim service professionals give survivors information concerning HIV infection as soon as possible so that survivors can make the best use of the information.[58] One hospital rape crisis intervention program, for example, reported that some two thirds of patients never returned for follow-up, thus missing important opportunities to receive information and counseling about HIV infection (Beth Israel Hospital, Boston, Mass, unpublished data, 1993).

Counseling should educate survivors about the physical and psychological effects of sexual assault, including HIV transmission, help survivors regain a sense of control over their lives, and allow survivors to make decisions regarding HIV testing based on accurate information and their own value systems. Information and counseling should be provided in a nondirective manner, offering survivors the opportunity for open-ended discussions of their questions in a nonjudgmental manner. The information and counseling offered should include discussions of risks of HIV infection, the meaning of HIV antibody tests as well as their advantages and disadvantages, and the limited data on the efficacy of chemoprophylaxis for HIV infection.

Service providers should be aware that different ethnic and cultural groups view rape and AIDS in different ways that are not necessarily represented in the dominant culture. For example, conceptions of sexual behavior as being intensely private can pose challenges to open and constructive counseling.

Some service situations may not present an appropriate environment in which to initiate a discussion of the possibility of HIV infection. Rape crisis hot lines or other settings without face-to-face contact may not allow the service provider to evaluate adequately the physical and psychological needs of the survivor or to offer immediate follow-up. Survivors should be offered referrals to agencies that provide information and counseling about HIV and AIDS. In settings where provider and survivor are face-to-face, HIV-related issues should be addressed as soon as clinically appropriate. The provider may give priority to the acute physical and psychological needs of the survivor, for example, where the survivor is gravely injured, unconscious, or so psychologically traumatized that he or she cannot assimilate the information.

It may be argued that discussion of HIV infection following sexual assaults could introduce ideas and anxieties where none existed or exacerbate existing fears. On the other hand, feelings of shame or inhibitions about discussing sexuality may make survivors reluctant to articulate questions they have about HIV. After careful consideration of all of these factors, respectful and nonthreatening inquiry may assist survivors in discussing their concerns.

Testing of Survivors

Survivors of sexual assaults need careful diagnosis and follow-up for a multiplicity of clinical conditions, including screening for STDs.[59-61] Voluntary HIV testing, with confi-

dentiality protections, should be provided only after obtaining individual informed consent. Survivors of sexual assault should be informed about the availability and advantages of anonymous HIV testing in those states where such testing exists. Testing and counseling offered to survivors should fully support their right and ability to make autonomous decisions. Professional counseling and education, such as discussing the meaning of the test and avoidance of high-risk behaviors, are essential.

It usually takes at least 2 weeks after exposure to HIV before any detectable antibodies are discerned using standard tests.[62] The vast majority of individuals infected with HIV have detectable antibodies within 3 to 6 months[63]; rarely, it may take longer. Newer diagnostic technologies, such as the polymerase chain reaction technique, shorten the period of time after exposure in which HIV infection may not be detected, since these new techniques identify viral antigen rather than antibodies. These tests, however, are not routinely available in most settings. Periodic testing for HIV infection beginning within 6 weeks after the assault can provide a number of potential benefits to the survivor. It can ease the psychological burden of survivors wondering if they have contracted HIV infection. Knowledge of test results also can enable survivors to make educated decisions regarding their health, sexual or needle-sharing behavior, reproduction, breast-feeding, and parenting.

Immediate postassault testing is of limited usefulness for medical or psychological purposes primarily because it will not indicate whether the survivor has been exposed during the assault or whether he or she is likely to become infected. If the survivor wishes to demonstrate in subsequent criminal or civil proceedings that he or she contracted HIV infection from the assailant, the survivor should be offered initial (baseline) testing soon after the assault. However, a successful prosecution or civil suit would need to show the survivor's seroconversion was due to the assault and not other risk behaviors.

In many states rape shield laws bar admission in criminal trials of evidence of the survivor's past sexual conduct for most purposes.[64] Where the prosecution in a criminal case attempts to prove that the survivor was exposed or infected by the assailant the survivor may find that his or her sexual history is not protected by rape shield laws. Also, while some states define rape or sexual assault in gender-neutral terms,[65] others may not. Depending on the relevant statutory language, male survivors may or may not be protected by rape shield laws even in a criminal prosecution.

Some jurisdictions have extended protections similar to rape shield provisions to safeguard defendants in civil cases who have not placed their sexual conduct in question.[66] It is unlikely, however, that this reasoning would also bar evidence of past sexual conduct if the survivor brings suit, and the survivor's other potential exposures to HIV are at issue.

A significant problem that arises from HIV counseling and testing in some states is that the alleged assailant may have a right to the survivor's medical and psychological service records. The Supreme Court has held that a defendant does not have free access to victim records; due process requires that a trial judge first review the information and determine whether to authorize its release.[67] However, some commentators have noted a trend in a number of states to breach therapist-client confidentiality in a variety of situations.[68] In Massachusetts, the Supreme Judicial Court recently spelled out specific requirements the defense must meet prior to any release of the victim's medical or psychological records and reinstated in-camera (in the judge's chambers or in a courtroom cleared of spectators) judicial review of the victim's records.[69] This substantially narrowed the defense's access to victim records, which had been thrown open by two earlier court decisions.[70,71] Victim records may include information from psychiatrists, psychologists, and other health care and victim service professionals.[72] In order to avoid documentation of the test result in the medical record, some survivors may prefer anonymous testing at an alternative test site. When a survivor seeks anonymous testing, only he or she need be aware of the results, or even that the test was sought. Information on HIV status the survivor obtains does not become part of any medical or psychological record.

Chemoprophylaxis for HIV Infection

Survivors, advocates, and victim service professionals may question whether survivors of sexual assaults should receive counseling and the offer of treatment with zidovudine (also known as AZT) as a prophylaxis for HIV infection. The development of antiretroviral therapy was shown to be efficacious in inhibiting HIV replication and led to clinical interest in whether drugs like zidovudine might be useful in preventing HIV transmission after exposure.[73] Many major health care facilities offer postexposure zidovudine treatment for workers who sustain injuries with contaminated needles, even though the efficacy of zidovudine in preventing HIV infection after initial exposure remains unproven. Extrapolation from animal models[74,75] often is difficult because of a number of variables, including differences in animal and human retroviruses and immune effector cells. A randomized, placebo-controlled clinical trial failed because too few subjects enrolled to justify its continuation.[76] While extrapolation from anecdotal experience is difficult, at least six cases of failure of zidovudine prophylaxis have been reported in health care workers.[73] In another analysis,[77] no HIV seroconversions were reported among more than 160 health care workers who took zidovudine following occupational exposure. The preliminary results of a recent study[78] indicating that zidovudine given to pregnant women may be effective in significantly reducing the rate of transmission from mother to child are likely to focus interest again on the possibility of using postexposure zidovudine treatment to prevent infection. It is difficult, however, to extrapolate from data on mother-to-child transmission to estimate zidovudine's potential efficacy in preventing infection from sexual exposure.

Thus, there are no clear-cut data establishing the efficacy of the prompt institution of zidovudine prophylaxis following an exposure to HIV.[79,80] The decision to take zidovudine following a sexual assault should be based on a risk assessment of the exposure. The risk assessment should consider available information on the serostatus of the assailant, the type of exposure (anal, vaginal, or oral penetration and ejaculation), the nature of the physical injuries, and the number of assaults. The survivor will almost never have adequate information to determine the serostatus of the assailant immediately after the assault. Individual assessment of the exposed individual also would have to consider reproductive health status and ability to tolerate potential side effects. Although the initiation of high-dose zidovudine chemoprophylaxis may have many mild and uncomfortable associated side effects (eg, fatigue, sleep disturbances, gastrointestinal

complaints, myalgia, and headache), their duration is usually transient. However, a substantial number of health care workers who began zidovudine prophylaxis have not completed the full course of medication.

An equally significant obstacle to the potentially effective use of chemoprophylaxis is the short window of time for initiation of effective therapy. Even a potentially efficacious intervention may not work after the virus is already well integrated into deeper tissue cells. Extrapolating from the laboratory data, most centers recommend initiation of zidovudine therapy within 4 hours of occupational exposure and continuation for at least 6 weeks.[71] However, it is not known whether there are any differences for infections that are transmitted sexually rather than by parenteral inoculation.

Victim service professionals face significant dilemmas when addressing prophylaxis. Introduction of information about an unsubstantiated prevention of an already small risk may create both added anxiety and unsubstantiated hope. The cost of zidovudine may make prophylaxis unaffordable for many survivors who might otherwise choose it. These dilemmas should be resolved in favor of respecting the survivor's right to evaluate the information and make a decision.

TESTING THE ACCUSED FOR HIV INFECTION

Some survivors claim the right to know their assailants' HIV status and may want to pursue having them tested.[81] Testing the accused for HIV infection is only feasible where the assailant has been identified and apprehended. Recent statistics indicate that only a small proportion of survivors will have this option. In 1991, nearly 52% of the 106 593 rapes reported to the police resulted in an arrest of at least one suspect.[82] Data from 1990 suggest that only 18% of reported rapes resulted in a felony conviction (of an adult); the average time between arrest and conviction was 254 days.[83] Informing the survivor about the small proportion of assailants who are arrested and convicted and the extended time between assault, arrest, and conviction could affect the survivor's expectations for testing the assailant and his or her own decisions regarding testing and prophylaxis.

Current Status of the Law

Federal law requires states to provide involuntary postconviction testing of sex offenders as a condition of the receipt of 10% of funds allocated to a state under the Bureau of Justice Assistance Grant programs. States also must provide HIV counseling for the survivor.[84] Other legislation introduced in Congress would go further.[85]

Currently, 32 states specifically authorize compulsory testing of offenders. Fifteen of these states authorize postconviction testing only; five authorize preconviction testing only; and seven authorize both preconviction and postconviction testing. The provisions of these statutes vary widely on a number of key variables in addition to the stage of the criminal process at which the offender can be tested. They differ in the range of persons to whom the test results may be disclosed and on whether or not the testing must be triggered by a request from the survivor. Four states also provide funding for testing or counseling of survivors[86] (Table).

The Case for Limited Compulsory HIV Testing

Public health organizations have endorsed reliance on voluntary HIV antibody testing based on informed consent, in most situations.[87,88] Human immunodeficiency virus prevention policies incorporating voluntary testing with informed consent best respect the right of the individual to make decisions regarding medical diagnoses and treatment based on a personal assessment of the risks and benefits of the procedure or treatment.[89] Moreover, involuntary HIV testing usually conflicts with important goals of the test.[7] In most settings, testing should be used to facilitate education, counseling, and behavior modification of the person being tested.[90] The process of informed consent becomes an integral part of the education and counseling process and forms a foundation for trust and cooperation between the patient and health care provider.

Particular characteristics of sexual assault distinguish it from other situations involving potential exposure to HIV infection[7] and suggest fundamental differences for the analysis of a proposal for compulsory testing. Survivors of sexual assault in no sense consented to the behavior that caused the potential exposure. Since the assault is, by definition, coerced, it represents a violation and a harm to the survivor. Its nonconsensual nature sharply differentiates sexual assault from many other potential exposures to HIV, including consensual sexual intercourse or needle sharing and voluntary employment in a setting where occupational exposure may occur. Because the survivor's exposure starts with a wrong, the accused owes the survivor a duty to limit the harm caused by the assault. Sexual assault causes ongoing harm, including the continuing fear of HIV infection, which can postpone or limit recovery. It is this dynamic and ongoing nature of the harm that suggests that public policy should do everything possible to limit future harm and to preserve the health of the survivor and his or her partners and children. It is fundamentally unfair to place all the burden of limiting future harm on the survivor. In the case of sexual assault, survivors usually bear the whole burden of continuing anxiety and protecting themselves, partners, and families. If testing the accused could limit future harm to the survivor and ease the burden of unfairness, it would provide a persuasive argument for involuntary testing of the accused.

Testing the accused will not be possible for most survivors because of the small percentage of assailants who are arrested and convicted in a timely manner. Therefore, meeting the needs of all survivors first requires the establishment of comprehensive systems of counseling, treatment, and anonymous or confidential testing of the survivor, which allow the survivor to come to terms with the assault and take measures to protect her or his health and the health of family and loved ones.

States that wish to go further and permit survivors to learn the HIV status of their assailants have at least four alternatives, all of which are imperfect: (1) relying on counseling and testing of the survivor alone; (2) seeking the consent of the accused to testing; (3) testing the accused without consent (compulsory testing), but only after conviction; and (4) testing the accused without consent, before conviction, with procedural safeguards.

Relying on counseling and testing of the survivor does nothing to ease the unfairness, noted herein, inherent in requiring the survivor to bear the burden of prolonged uncertainty and possible alterations in life plans. Voluntary testing of the accused could provide the same benefits as compelled testing if the accused consents (many hospitals seek voluntary testing of the patient when a health care

State Statutes*

State/ Territory	Involuntary Preconviction Testing	Voluntary Preconviction Testing	Postconviction Testing	Disclosure to Victim	Funding for Testing of Survivors	Criminal Penalty for Knowing Exposure to HIV†
Alabama						X
Alaska						
Arizona		X	X	X		
Arkansas	X		X	X		X
California	X‡			X		X
Colorado	X			X		X
Connecticut						
Delaware						X
District of Columbia						
Florida	X	X		X		X
Georgia	X	X	X‡	X		X
Hawaii						
Idaho	X		X	X	X	X
Illinois	X		X	X		X
Indiana			X	X		X
Iowa						X
Kansas			X	X		X
Kentucky		X	X	X		X
Louisiana			X	X		X
Maine			X‡	X		
Maryland	X		X	X		X
Massachusetts						
Michigan			X	X		X
Minnesota						
Mississippi			X	X		X
Missouri			X	X	X	X
Montana						
Nebraska						
Nevada	X			X		X
New Hampshire						
New Jersey						
New Mexico				X		
New York						
North Carolina	X					
North Dakota	X‡			X		
Ohio	X			X		X
Oklahoma	X			X	§	X
Oregon			X‖	X		
Pennsylvania						
Puerto Rico						
Rhode Island			X			
South Carolina			X	X		X
South Dakota	X‡			X	X	
Tennessee		X	X	X		X
Texas	X			X		X
Utah			X	X		X
Vermont						
Virgin Islands						
Virginia	X	X	X‡	X		X
Washington						X
West Virginia			X			
Wisconsin						
Wyoming	X		X	X		

*This chart was compiled using information from the AIDS Policy Center Intergovernmental Health Project at George Washington University, Washington, DC, May 1993, and from D. Thomas Nelson, legislative analyst, National Victim Center, Arlington, Va, 1993.
†Exposure to human immunodeficiency virus (HIV) may be by means other than sexual contact.
‡Includes juvenile offenders.
§Provides free testing for venereal or communicable disease but does not specify HIV.
‖Survivor must first submit to HIV test.

worker is exposed during the course of patient care). The disadvantage of voluntary testing is that the accused controls the information and may have little motivation to benefit the survivor.

If policymakers choose compelled testing, they face a dilemma when choosing the point in time to impose the test. The dilemma arises from the changing relationship over time between the usefulness of the information to the survivor and

the strength of the privacy interests of the accused. In most cases the survivor's strongest claim to a benefit from testing the accused comes from knowing the results of the test as early as possible. Testing the accused late in the criminal process fails to assist survivors because they already have borne the burden of worry about contracting HIV infection. At the same time, the accused has the strongest claim to protection early in the criminal process. On the other hand, the problem with testing the accused before conviction is that he will sustain a significant invasion of his autonomy and privacy without a trial establishing his guilt. Therefore, any solution results in either a diminution of the usefulness of the information to the survivor or an infringement on the legitimate interests of the accused.

The policy alternative that produces the greatest benefit for the largest number of survivors may be to allow preconviction testing of the accused at the request of the survivor. Adequate procedural safeguards would need to be in place to reduce the likelihood of testing persons wrongly accused, to limit disclosure of the results, and to prevent punitive use of the information.

We propose that a policy designed for this purpose would (1) authorize preconviction testing, initiated at the request of the survivor; (2) require the prosecution to demonstrate probable cause to believe that an assault was committed, that the accused committed the assault, and that the assault was of a type that could transmit HIV infection (eg, that semen or blood was transferred from the assailant to the survivor, or the survivor experienced traumatic injury with exposure to semen or blood); (3) authorize retesting of the accused 6 months after the assault, if the initial test result is negative, unless the accused already has been acquitted; (4) disclose the test results only to the survivor and the accused, but allow the accused to exercise a prerogative not to be informed of his serostatus; (5) protect the confidentiality of the test results, except as required to inform the survivor and sexual partners or family members the survivor believes must be informed to protect their safety, with civil penalties for unauthorized disclosure to other parties; and (6) limit the use of information obtained by compelled testing by making test results not admissible as evidence in the criminal or subsequent civil proceedings.[91] In order to protect the accused from inappropriate testing and unauthorized disclosures, the procedural protections embodied in this policy, including a probable cause hearing, limited disclosure, and confidentiality protection, are particularly important and merit careful consideration by policymakers and drafters of statutory language.

Due to the serious nature of the invasions of the accused's interests caused by compulsory preconviction testing (autonomy, privacy, and procedural fairness),[92] it is only justified where there are compelling reasons. There are three possible objectives of testing the accused, each of which, if achieved, could reduce some facets of the harm of sexual assault and justify a policy of limited involuntary testing.

1. Clinical Benefit to Survivor.—If early knowledge of HIV infection allowed the survivor to receive beneficial treatment, it would provide a powerful justification for preconviction testing. However, the two areas in which medical advances might lead to a clear benefit from early knowledge of infection are not well developed: HIV prophylaxis and presymptomatic clinical treatment. The efficacy of prophylaxis against HIV infection through sexual or parenteral exposure is unproven, and if given, early initiation is recommended. Even in the rare event that the assailant is apprehended immediately, rapid testing would require elimination of all but the most cursory procedural protections for the assailant, as well as reliance on the most rapid test procedures and no confirmation of positive test results. Despite these significant limitations, preconviction testing with full procedural protections could alter the survivor's course of prophylactic antiviral therapy. The survivor could begin antiviral therapy as soon after the assault as possible. If, subsequently, the survivor learns that the accused has tested negative, he or she could discontinue the prophylaxis and avoid the potential side effects of continued treatment with antiviral drugs. Even though the survivor could not rely on a single negative test result to completely eliminate the risk of a false-negative result, this might provide substantial relief to survivors who experienced serious side effects.

The clinical benefits from timely treatment with antiretrovirals[93,94] and prophylaxis for opportunistic infections[95] are generally accepted by medical practitioners. However, current standards of care are still in flux regarding the optimal time to initiate antiretroviral therapy, given recent data suggesting that the treatment of asymptomatic HIV-infected persons may not extend survival.[96] Thus, at this time, testing the accused soon after the assault could provide little or no therapeutic benefit to an infected survivor. Medical advances showing improved survival by instituting immediate therapeutic intervention could make earlier detection of HIV status more useful.

2. Public Health Benefit.—Imposed testing may offer public health benefits. Survivors of sexual assault do not exist in a vacuum. They may be involved in sexual relationships, and they often return to those relationships soon after the assault. One study[97] found 37% of survivors had voluntary sexual intercourse 1 day to 5 months after the assault. Survivors may be pregnant or contemplating starting a family. Therefore, an objective of testing the accused is to alert the survivor to the possibility of infection and allow him or her to take precautions to prevent further transmission.

Certainly, testing the accused will not give the survivor definitive guidance. However, it could provide the survivor with a degree of reassurance or caution about whether or not to continue to take precautions before his or her own serostatus is detectable. Nor is testing the accused absolutely necessary to protect the health of others. The survivor has other alternatives that are less intrusive for the accused but more burdensome for him or her. The survivor can protect sexual partners by abstaining from intercourse or using condoms; the survivor also can protect offspring by delaying pregnancy and avoiding breast-feeding. Although current data on zidovudine in pregnancy only apply to women already infected with HIV,[78] it is possible that new data will suggest that postexposure zidovudine treatment will inhibit transmission to the fetus. Thereafter, a survivor who is pregnant might consider taking zidovudine during the second and third trimesters of pregnancy to reduce the likelihood of transmission to her unborn child. Since the long-term consequences of prenatal exposure to zidovudine on children are not known, repeated negative test results of the assailant would allow a pregnant survivor to stop taking zidovudine and minimize potential harm. However, these preventive measures entail

substantial behavior changes, some risk to others (HIV transmission and pregnancy from improper use of condoms and unknown long-term effects of prenatal zidovudine treatment on children), and costs (both personal and financial), including alteration of life plans (delaying parenthood, marriage, or sexual relationships). Fairness dictates that the risks and burdens of limiting future harm should not rest solely with the survivor.

3. Psychological Benefit of the Survivor.—The strongest case for imposed preconviction testing rests on the psychological benefits it may offer the survivor. The psychological well-being of the survivor of sexual assault is a crucial part of his or her overall health. The psychological harm from sexual assault includes not only the trauma of the original assault, but also the rational fear of HIV infection. Moreover, the burden of anxiety persists for a substantial period of time. Without testing the accused, the survivor cannot rely on his or her infection status for 6 to 12 months after the assault.

Policies authorizing early testing of the accused could help relieve this concern in many cases. Even given the small possibility of false-positive and false-negative test results, the news would provide substantial reassurance to the survivor. Of course, where testing reveals that the accused is infected, the survivor could experience additional psychological stress. This burden, while heavy, would fall on far fewer survivors than those who currently worry about infection. Knowledge of exposure might even allow survivors to begin psychological preparation for the results of their own testing. In those cases of sexual assault where the accused is apprehended relatively soon after the assault, involuntary testing, with appropriate due process and confidentiality protections for the accused, could mitigate one of the primary ongoing harms of the assault, the survivor's fear and uncertainty about the risk of contracting HIV.

OTHER POSSIBLE USES OF HIV TEST RESULTS

Some survivors may seek testing of the accused in order to use the information in criminal or civil litigation. The policy proposed in this article would not allow the results of compelled preconviction testing to be used in any subsequent legal proceeding. However, existing state statutes and case law have endorsed the use of evidence of HIV infection in a number of circumstances. Twenty-seven states have specific criminal penalties for knowingly exposing others to HIV infection (Table). Several courts in civil cases have awarded significant damages to individuals who were exposed to but not infected with HIV.[98]

In most jurisdictions, a court cannot find the accused guilty or liable based solely on HIV status. In criminal cases the state of mind of the accused is relevant—usually intentional or knowing transmission of infection. In a civil case for intentional assault aggravated by HIV infection, the plaintiff must demonstrate that the assailant knew he was HIV-infected and the intercourse was nonconsensual.[99] In order to prove that transmission occurred as a result of the assault, the survivor would have to consent to baseline testing and demonstrate that subsequent seroconversion was not due to other risk behaviors.

CONSTITUTIONAL RIGHTS OF ACCUSED PERSONS

Defendants in criminal cases involving sexual assault have challenged compulsory HIV testing on a number of constitutional grounds, notably the Fourth Amendment right to be free from unreasonable searches and seizures. Emerging Fourth Amendment case law indicates that a carefully crafted testing program would be held constitutional. Such a program would require a probable cause hearing prior to compelled testing, protect the confidentiality of HIV antibody test results, and bar use of test results in subsequent legal proceedings.

The Fourth Amendment guarantees individuals the right to be "secure in their persons . . . against unreasonable searches and seizures." Supporting this guarantee is the amendment's requirement that all search warrants be supported by probable cause that the person committed the offense. The Supreme Court has long held that an invasion of the body, such as through compelled testing of blood, urine, or "deep-lung" breath, is a search and seizure within the meaning of the Fourth Amendment.[100]

When the information is to be used as evidence in a criminal trial, the Supreme Court normally requires a judicial warrant based on probable cause before a search. However, in exceptional cases (eg, under exigent circumstances, such as when the evidence may be evanescent,[100] or there is an imminent risk to life[101]), a warrantless search may be constitutional as long as the search was reasonable under the circumstances. Testing for HIV infection for use in a criminal trial[102] would likely require a warrant because HIV infection, unlike blood alcohol or drug metabolite level, will not disappear if the test is delayed. Nor would there be an immediate threat to the health or life of the survivor. Issuance of a warrant for HIV testing for use as evidence in a criminal trial without demonstrating that the infection is probable and relevant to proof of the crime could conceivably represent an unconstitutional infringement of a defendant's rights.[103]

The policy for compulsory testing proposed here would be examined under the Supreme Court's special needs standard. The special needs standard was developed in two companion cases involving the constitutional authority of the government to test individuals for illicit drug use.[104,105] The standard is applicable when the reason for the search is beyond the normal needs of law enforcement because it does not seek evidence of criminal activity. The special needs standard provides an exception to the warrant and probable cause requirements when to insist on a warrant would be impracticable or would impede the government's objective.[106]

The policy proposed in this article would provide a hearing on the issues of whether there was probable cause to believe that the assault occurred, that the accused committed the assault, and that the survivor was exposed to blood or semen. This policy fully supports these due process protections as well as confidentiality provisions and stringent limitations on subsequent use of testing information. However, given the difficulties in determining serostatus in the absence of a test, the prosecution would not have to demonstrate probable cause or individualized suspicion that the assailant was likely to be infected with HIV.

A number of court decisions following the drug-testing cases suggest that when the government is trying to achieve an important public purpose, and when the intrusion on privacy is not substantial, the testing program will be upheld.[107-109] The government has a compelling interest in obtaining information that directly affects the physical and mental well-being of survivors of sexual assault.[110] The exchange of semen

or blood poses a real, albeit low, risk of transmission of HIV infection. It is, therefore, distinguishable from those cases, such as a bite or nonsexual assault, where the risk is "minuscule, trivial ... approaching zero."[111,112] Moreover, preconviction testing of defendants, while not perfect, is essential if the purposes for the testing are to be achieved.[113]

While the Supreme Court perceives government-imposed blood tests as "commonplace" and not unduly intrusive,[110,115] preconviction HIV testing should be acknowledged as much more intrusive than most tests. The personal interest of the accused is not merely the drawing of blood without consent, but the intimate information obtained that could result in a deep invasion of privacy and discrimination. The proposed policy, however, reduces the intrusion on the individual by seeking to ensure confidentiality; protecting against forced disclosure of the test result to the accused; and prohibiting use of the information against him in judicial proceedings. Thus, the constitutionality of the policy proposed herein, while not assured, is likely to be affirmed by the judiciary.

CONCLUSIONS

The existing literature on HIV testing after sexual assault is divided as to whether or not compelled testing of the accused is justified.[101,113,114] This analysis differs from its predecessors chiefly in the significance attached to the usefulness of knowing the accused's serostatus in mitigating the ongoing harm to the survivor and others, particularly the psychological benefit and the potential protection of the survivor's partner and future children. It also seeks to suggest areas in which scientific advances in understanding the mechanism of HIV infection and disease could make the case for early testing of the accused stronger or weaker. Based on existing knowledge of the trauma experienced by survivors of sexual assault and the risks of HIV transmission, testing could yield identifiable benefits to the survivor. The reassurance of early testing of the accused could have a significant impact on the mental health of survivors and their families, their adjustment to the traumatic experience, and their successful reintegration into productive lives.

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NON-CONSENSUAL SEXUAL EXPERIENCE & HIV EDUCATION
An Educator's View

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"Feelings are 100% okay," I tell a group of thirty high school students.

They stare back blankly.

"Whatever you feel about whatever we talk about today is 100% okay." They shift in their seats, eyebrows raised.

I know what they are thinking:

Feelings? I thought this was a class about AIDS?

The connection is easy to make.

"Today we're going to talk about AIDS and HIV disease, which means we're going to talk about things that can bring up a lot of different feelings."

The list is familiar: people who have sex with a same-gender partner, drug and alcohol use, fear of infection, knowing someone who is HIV-positive, being HIV-positive, and past or present sexual experiences.

I watch the faces and movements of the students. They are listening intently, particularly to the part about sexual experiences.

"Some of us haven't had any sexual experiences. Some of us have had sexual experiences that felt good and were consensual. And some of us have had sexual experiences that were uncomfortable, or that we didn't choose, or that we were forced to have. I need to talk with you about HIV prevention, and that means I need to talk explicitly about forms of sexual intercourse that present a risk of transmission when preventive measures aren't used. I know that for some of us, the information may be difficult or uncomfortable to hear because of our past or current sexual experiences. It's okay."

I look around the room. Arms and bodies are relaxing. Everyone is listening and making eye contact, including the few male and female students who, at the start of the class, were studiously observing the floor tiling.

Consensual Sex Assumption in HIV/AIDS Prevention

I began using the above approach in HIV/AIDS prevention workshops when I realized that the information I taught — information about anal intercourse, vaginal intercourse, and oral intercourse — mirrored for some individuals their abusive or non-consensual sexual experiences. In this article, sexual abuse is defined as a violation perpetrated by someone with power over someone who is vulnerable.[1] This violation takes a sexual form and may include physical, verbal, and emotional components. This definition is inclusive of the common names we give to sexual violation, including rape, date-rape, domestic violence, sexual assault, sexual harassment, incest, and sexual molestation. Every day, every minute, in the United States, individuals of both genders, of all sexual orientations, identities, races, and of all ages, are being forced to have sexual intercourse. Others are exchanging sexual activities in ways that are generally considered "consensual," but that may, in fact, feel non-consensual. These activities may include, for example, exchanging sex for money, exchanging sex for a place to sleep, exchanging sex to keep a job, or agreeing to have sex out of a sense of obligation. For the purposes of this article, non-consensual sexual activity is defined as any form of sexual activity that may be or feel unwanted. Additionally, the word "victim" herein refers to a person who is presently being sexually abused or experiencing non-consensual sex. "Survivor" refers to a person who is no longer being abuse or experiencing non-consensual sex.

In a May, 1992 testimony to the National Commission on AIDS, SIECUS' Executive Director, Debra Haffner wrote:

> It is also important for us to remember that not all adolescent sexual behaviors are voluntary. One in four girls and one in six boys report that they have been sexually assaulted. Recent studies report much higher rates of sexual intercourse among teens who have been abused, including higher rates of pregnancy and multiple partners (Select Committee on Children, Youth, and Families, 1992).[2]

It is extremely important for us to incorporate this knowledge into current HIV education efforts.

Much of HIV education, in fact, is derived from a "consensual sex assumption." As an underlying phllosophy, it

assumes that the majority of sexual activity is consensual and drives such prevention slogans as, "Talk to your partner," and "Using a condom is as easy as putting on a sock." Safer sex education programs derived from a consensual sex assumption often have a "cheerleading" element, focusing on the pleasurable aspects of safer sexual behaviors. While positive aspects of sexuality are important to emphasize, the consensual sex assumption has shaped our current prevention efforts much to the exclusion of people who do not feel empowered in relationships, whose consensual sexual relationships are not pleasurable, and whose non-consensual relationships do not allow room for negotiation. The concept of negotiation itself is, in fact, based in a consensual sex assumption that individuals believe in their own power and rights and have a relationship in which those rights are respected.

HIV Education and the Survivor or Victim

According to the statistical reality of sexual abuse and non-consensual sex, every audience or group has individuals who have been sexually abused or have had relationships or encounters that involve non-consensual sex. For survivors and victims, HIV education — as well as sexuality education in general — can be an uncomfortable and threatening experience. It is my belief that the responses of individuals to HIV and sexuality education can sometimes be misinterpreted as erotophobic, sometimes even homophobic. Survivors and victims may not necessarily fear the erotic or fear homosexuality. They may, however, fear abuse and sometimes express it in educational forums. *[See box on this page.]* Survivors and victims bring to prevention education workshops the experience of abusive or non-consensual sexual activity with opposite or with same-gender perpetrators.

For survivors and victims, the language and content in HIV education can trigger past or current experiences, and can lead to dissociating or even physical illness. For an individual who has been forced to engage in oral intercourse, a discussion about safer oral sex can be unsettling. In HIV and sexuality education trainings, survivors and victims may experience anything from vague feelings of discomfort, guilt, or shame to actual memories of abuse. It can be difficult to hear or absorb important HIV prevention information. Penis models or sexually explicit brochures, for instance, can be particularly troublesome for survivors and victims. A survivor in a safer sex workshop, conducted by another HIV educator, confided in me, "There were penises everywhere. I couldn't think."

Understanding Behaviors

In addition to affirming feelings, HIV education needs to incorporate an acceptance of the behaviors of survivors and victims that is based on an understanding of the effects of sexual violation. Many of the effects of sexual abuse and non-consensual sex translate into behaviors that directly impact the survivor's or victim's ability to prevent HIV exposure. It is important to note that not all survivors or victims experience the same effects and behaviors. In fact, some behaviors can be supportive of HIV prevention. For example, survivors and victims may be sexually abstinent and may avoid alcohol and drug use. Others may strive for "perfection," using safer sex to avoid "making a mistake."

Case in Point

Homophobic responses to HIV and sexuality education can sometimes be an indication of past or current abuse by a same-gender perpetrator, whether or not the abuse is remembered or identified. A male student in a class I worked with became extremely upset when he learned that an HIV-positive gay male speaker would be coming to talk. His language was clear, hostile, and unacceptable, "If that faggot comes near me, I'll beat him up." The teacher's first approach was to address what she considered to be the underlying cause of the student's response — fear of homosexuality. As the other students listened, she assured him, "Just because a man is gay, does not mean he will be attracted to you." The student was not convinced and continued to be extremely fearful and vocal about it. The teacher then responded to the student's fear of being touched. She let the student know that inappropriate touch was not okay, and that in her classroom he would be physically and emotionally safe. They had a mutual discussion about personal space and boundaries. The student became calmer and seemed satisfied.

What then followed was an open discussion, not about homosexuality, but about abuse. The student who was afraid of being touched inappropriately, as well as the other students, initiated a conversation about past sexual abuse. The teacher gently discussed the difference between abuse by a same-gender perpetrator and homosexuality.

Sexual abuse has to do with power and inappropriate sexual attention on the part of the perpetrator. It has to do with violation and assault. Sexual abuse perpetrators can be male or female, homosexual or heterosexual. Most sexual abuse perpetrators, however, identify as heterosexual, regardless of the gender of their victims. The choice of a victim by a perpetrator is often determined by the availability of the victim, not by gender. In contrast, SIECUS defines sexual orientation as one's erotic, romantic, and affectional attraction to persons of the same gender, the opposite gender, or both. Sexual abuse perpetrators, victims, and survivors can identify as either heterosexual, homosexual, or bisexual, which are believed to be formed independent of the abuse.

It is important to note that fear of abuse and fear of homosexuality are not the same thing, although the manifestations of fear can be similar. Survivors and victims of same-gender perpetrators (as well as others) may have difficulty sorting through the distinctions in a culture that offers no positive, healthy images of homosexuality and that does not promote precise defintions and clear explanations about sexual abuse or sexual orientation.

TIPS FOR INCORPORATING SEXUAL ABUSE AND NON-CONSENSUAL SEX INTO HIV EDUCATION AND PREVENTION PROGRAMS

- Assume that every group has participants who are survivors or victims of sexual abuse and non-consensual sex. Understand and accept that some participants may currently be engaging in behaviors that put them at risk for HIV infection due to past or current abuses.

- Establish ground rules or boundaries of safety. Acknowledge that the content of the program can bring up feelings for participants. Let participants know that there are no good or bad feelings. All feelings are 100% okay. Let participants know that feelings "just are," and it is the behaviors that are negotiable. Affirm for participants that feelings can come up before, during, and after the workshop. Urge participants to take care of themselves and make a list of referrals available.

- Have a policy of no surprises. At the beginning of the program let participants know the sexual terminology you use in the workshop (i.e., penis, rectum, anal intercourse, vaginal intercourse, oral intercourse, etc.) Also disclose the specific content of the program (i.e., condom demonstration using fingers, penis model, etc.) Understand that realistic models, as well as explicit discussion of sexual activity, can trigger intense discomfort, feelings, memories, or dissociation for survivors and victims. Reaffirm and acknowledge feelings throughout the discussion of sexual transmission and prevention.

- Avoid focusing on terms such as sexual abuse, incest, rape, date rape, etc. For many people these labels are threatening. Often survivors and victims do not identify what has happened, or what is currently happening, as abuse. Use less-threatening terminology, such as "forced sex," "sex we didn't choose," "sex because you feel obligated." This language allows participants to identify with their own behaviors and experiences without judgment or threat.

- Avoid language that labels sexual behavior. Do not use words like "promiscuous," "slut," "prostitute," "easy," "stud," "hustler," etc. These labels only trigger shame, especially for survivors who have been verbally abused.

- Focus on feelings and behaviors. Avoid replicating what sometimes occurs in substance abuse/alcohol awareness programs in which the focus sometimes remains with the substance rather than the underlying behaviors. Give the issues a context. (i.e., "Some of us have been out on a date and been forced to have sex that can put us at risk for HIV infection. What might I do to keep myself safe in that situation?")

- Avoid easy prevention slogans (prevention by bumper sticker) and statements that convey blame, shame, or guilt.

- Be patient in explaining the differences between sexual abuse and sexual orientation. Homophobia is everywhere, and many people confuse same-gender perpetrators with homosexuality.

- Understand that some survivors and victims have been or are currently forced to engage in sexual activity with animals. Respond seriously and gently to all questions regarding the transmission of HIV between animals and humans.

- Examine the process of each workshop. Incorporate without judgment the behaviors of survivors and victims that assist and inhibit HIV prevention into teaching exercises and role plays.

Behaviors inhibiting HIV prevention are many. Survivors and victims may experience a lack of boundaries around their bodies, and believe that what a partner wants is more important than what they want. Many feel shame or guilt about sexual activities, especially when sexual activities are pleasurable. Survivors and victims may be or may have been involved in relationships which are abusive or in which an imbalance of power is notable. Survivors and victims may struggle with addictive or troublesome use of alcohol, drugs, food, and sex. Some believe that their worth is primarily sexual, which can result in exchanging sex for money, housing, or food. Survivors and victims may be unable to stay present during sexual activities, and may have the experience of not being in their bodies during sexual relations. Survivors and victims may be unwilling to touch their own bodies or a partner's body. Many disregard their own health and minimize the danger and risks to their bodies. In general, survivors and victims find it difficult to ask for help, to state their own needs, or to accept help and support.

Rather than ask why an individual has multiple partners, or injects drugs, or cannot say "no" to a partner, or does not take care of his or her health, HIV education programs need to start with the accepting statement, "of course." Of course survivors and victims engage in behaviors that are learned responses to past and current abuse. Acceptance means understanding that many of these behaviors in the lives of survivors and victims ensure their survival. For example, alcohol and drugs may be used to numb the reality of what happened or is currently happening, and can be a protective behavior

against suicide or self-mutilation. One HIV-positive survivor told me that exchanging sex for money gave her the feeling of control over her body, and, at that time in her life, she remembers feeling that her self-esteem increased. In her words, "It was better than either giving it away or having it taken. I felt like my body was worth something."

HIV prevention education needs to avoid easy slogans. For example, "Using a condom is easy"; "If your partner won't use a condom, than s/he's not worth it"; "If you are not old enough to talk to your partner, you're not old enough to have sex." Survivors and victims carry a tremendous amount of guilt and shame that is intensified by messages that contradict their reality. Using a condom is not easy if you fear touching your own body or someone else's. It may not be "worth it" to fight over a condom with a partner in a relationship that is non-consensual. A teenager who is forced to have sex may not be able to "talk to his partner." In most cases the adult perpetrator convinces the victim that the sexual abuse is consensual and the victim's fault. Victims and survivors who have not identified the abuse, or are currently being abused, may hear simple safer sex slogans as indictments of their behavior.

Adapting HIV and Prevention Education

We need to acknowledge and affirm the feelings and behaviors of survivors and victims of sexual abuse and non-consensual sex within our education programs. We need also to review the current ways we teach HIV disease and ask, "What is this process like for the survivors and victims in this group?"

"Simple" skill building exercises like teaching people how to put a condom on a penis can be difficult for some survivors and victims. "Negotiation" role plays and activities exploring the names and types of sexual activity can also be difficult. Additionally, forced exercises — like matching individuals together for an activity — can be threatening for individuals who do not feel comfortable saying "no" or stating their needs. Finally, most exercises and activities contain an assumption that participants can both process and feel at the same time. One survivor told me, "It's later, after the fact, that I'm confronted with the feelings, and they can be full of self-doubt and self-abuse."

Incorporating sexual abuse and non-consensual sex into HIV education efforts requires modeling and accepting small, manageable steps that match the individual's feelings and behaviors. This kind of work is similar to individual risk reduction counseling. Individuals in the groups I teach often say that they feel "safe" and "included." Some begin to make connections for themselves about how best to prevent HIV infection. One workshop participant "ran away" from a current relationship. Another requested a referral to start therapy. One 12 year-old girl wanted information about HIV antibody testing and counseling because she had been sexually assaulted by an adult male acquaintance. For some participants making the connections may mean taking home a condom or latex barrier and practicing with it. While many individuals disclose that they are survivors or victims after or during HIV prevention education classes, many do not. The goal of this work is to help individuals identify their own risk behaviors for HIV, and not to label individuals as survivors or victims.

Effective education and prevention approaches must be based in the survivor's and the victim's perceptions of personal feelings, sexual experiences, and behaviors. HIV education must begin by addressing the discrepancy between the goals of current prevention education (perfect communication, perfect safer sex practice, perfect comfort with sexuality) and the abilities of survivors and victims of sexual abuse and non-consensual sex. When the reality of feelings, sexual experiences and behaviors is not affirmed or acknowledged, survivors and victims of abuse can leave an HIV education program feeling more powerless than before, feeling more isolated and different. They may leave less likely to utilize critical prevention information. The challenge is to acknowledge the protective value of behaviors in which survivors and victims engage, while gently assisting an understanding that those behaviors can lead to a risk for HIV infection. It is not hopeless. Survivors and victims are tremendously resourceful. It is simply recognizing, where, as HIV prevention educators, we need to begin.

Author's References

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Cathy Kidman, a survivor herself, worked in domestic violence and rape prevention before joining the staff of The AIDS Project in Maine.

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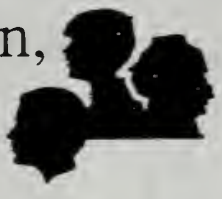
New Directions For Men, Inc.



Spotlight on Massachusetts

New Directions for Men was started by four therapists in 1980. The therapists had been associated with Emerge, an organization founded in the mid-70s to address the problem of male battering. Emerge began to receive calls from men who were not batterers, but who wanted referral for therapy for other problems. New Directions for Men was established to meet this need.

New Directions for Men offers a wide range of services including marital counseling and group and individual therapy for problems ranging from anxiety to sexual dysfunction. The organization also treats men who are sexual offenders.

The demand for help for adult male victims of child sexual abuse is more recent. Presently, male survivors of childhood sexual abuse are offered individual therapy. New Directions is in the process of organizing a treatment group..

Joe Doherty, Ed.D., explains the approach, saying "There is no formal testing of clients, but I assess the impact of the abuse. I look at relationships, degree of depression, the use of alcohol and drugs, and the person's work history." Doherty adds that those with substance abuse problems are referred for concurrent treatment.

Doherty tries to help clients articulate the impact of the abuse. "I encourage the individual to get in touch with resources, read books, and break the isolation that frequently is part of how survivors manage."

One option to removing isolation is to attend a monthly drop-in group for male survivors. Doherty helped organize the group that started in September 1987. Six men attended the first meeting. Now a core group of eight men attend regularly with some meetings attracting as many as 14.

The group is organized around themes. Each month features a different topic, for example, depression, intimacy, substance abuse or sexuality. Doherty gives a short description of the topic, followed by open discussion.

Guidelines for the group are fairly simple. When someone new comes to his first meeting, he is given a written copy of the guidelines. The group is open to any non-offending male survivor of childhood sexual abuse. Those who attend the group are asked to maintain confidentiality and not disclose information outside the group. There is no touching without permission. Those attending are asked to arrive on time, refrain from advice-giving, and avoid monopolizing the group. The guidelines ask that those attending refrain from racist, sexist, ageist and homophobic remarks. Anyone has permission to leave the group at any time for any reason.

The drop-in group is not a treatment group. There is no formal follow-up of those who attend. However, Doherty notes that the vast majority who attend are also in individual or group treatment. The group is often recommended by the therapist, but some members learn of the group through a listing in the local newspaper's calendar of events.

"There is a great deal of shame and embarrassment when dealing with the abuse," states Doherty. "Sometimes the events seem too painful to look at. People want to be healed. It's hard to accept that someone else has been so disruptive to one's life. It's easier to deny the impact."

Most clients remain in individual treatment less than a year. Doherty typically does not involve family members in treatment. Part of the reason is that, to date, no married men have presented themselves for treatment.

New Directions for Men plans to start a treatment group for male survivors in the spring of 1990. Doherty also deals with a wider range of trauma disorders. He is a consultant to a Roman Catholic organization with personnel in war-torn countries, some of whom have experienced post-traumatic stress problems. Doherty serves as a trainer for legal personnel and police and has also been an expert witness in a variety of court cases concerning sexual abuse.

For Additional Information:
New Directions for Men, Inc.
678 Massachusetts Avenue
Suite 305
Cambridge, MA 02139
(617)864-5434

Sample of Requested Order Re: Privileged Records Provided by Essex County District Attorney's Office

COMMONWEALTH)
)
V.) ORDER RE: PRIVILEGED RECORDS
)
_____)

The following Order is hereby entered concerning the viewing and disclosure of any and all privileged records which the court has subpeonaed to the Clerk's Office:

1. The records shall be impounded and shall not be viewed by any person or persons except those named herein.

2. The records may only be viewed in the Clerk's Office by counsel for the Commonwealth _____ _____ and counsel for the defendant _____.

3. Although counsel may make notes of the matters contained in the records, the records shall not be photographed, photocopied, or in any manner duplicated.

4. Counsel for the Commonwealth and counsel for the defendant shall not disclose the contents of the records to any one.

5. Any request for modification of this Order shall be made in writing, shall be impounded with the privileged records and shall be heard in camera.

It is so ordered this _____ day of _____, 19__.

_____
JUDGE

COMMONWEALTH *vs.* EDWARD BISHOP.

Middlesex. February 3, 1993. - August 16, 1993.

Present: LIACOS, C.J., WILKINS, ABRAMS, NOLAN, LYNCH, O'CONNOR, & GREANEY, JJ.

Rape. Evidence, Grand jury proceedings, Privileged communication, Medical record, Communication between patient and psychotherapist, School record, Impeachment of credibility, Fresh complaint. *Practice, Criminal*, In camera inspection, Discovery, Bill of particulars. *Privileged Communication.*

There was no merit to a defendant's contention that indictments charging him with sexual offenses involving two teen-aged boys should be dismissed on the ground that the victims' testimony was presented to the grand jury on videotape. [173-174]

Discussion of the standards that the judge in a criminal case is to apply in identifying the circumstances in which disclosure of an alleged victim's privileged records is required in order to provide the defendant a fair trial, as guaranteed by art. 12 of the Massachusetts Declaration of Rights. [175-179]

Description of the procedures that the judge in a criminal case is to follow when the defendant files a motion for production of confidential records pertaining to an alleged victim. [179-183]

Where the record on appeal in a criminal case did not reveal the basis for the judge's decision, after an in camera examination, not to release to the prosecution and the defense certain privileged psychological records of the victims, the judge on remand was to reexamine the records in camera and rule on their relevance to any issue in the case; counsel, in their capacity as officers of the court, were to be allowed access to such material as the judge found to be relevant; and the defendant was to be permitted to move for a new trial. [183-184]

On remand of a rape case, the judge was to rule as to the privileged character of certain undisclosed clinical records of the victims, and was to release the records to the prosecution and the defense if he found them not privileged; if the judge found the records to be privileged, the defendant was to be allowed to submit the theory or theories under which particular records have likely relevance to an issue in the case; and, after in camera review by the judge, counsel, in their capacity as officers of the court, were to be afforded access to any portions of the

records found by the judge to be relevant; the defendant then was to be permitted to move for a new trial. [184-185]

On appeal of his convictions of sexual offenses involving two teen-aged boys, a defendant made no showing that he had been denied access to any relevant information in the victims' school records. [185-186]

At a rape trial, the judge correctly refused to permit the defendant to cross-examine the victims concerning previous false allegations of sexual misconduct against other persons, in the absence of a factual basis for concluding that the victims, or one of them, had made the allegations and that the allegations were false. [186]

There was no merit to a criminal defendant's claim that a bill of particulars furnished to him lacked specificity. [186-187]

At the trial of indictments for sexual offenses, the teen-aged victims' statements to their mother were properly admitted in evidence under the fresh complaint doctrine. [187-188]

At a criminal trial, neither the prosecutor's closing argument [188], nor the representation provided by defense counsel [188-189], presented any ground for reversal of the defendant's convictions.

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INDICTMENTS found and returned in the Superior Court Department on May 2, 1990.

Pretrial motions were heard by *Paul A. Chernoff*, J., and the cases were tried before *John P. Forte*, J., sitting under statutory authority.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

James L. Rogal, for the defendant.

Sabita Singh, Assistant District Attorney, for the Commonwealth.

NOLAN, J. The victims, whom we shall call Brian and Stephen (not their true names), are brothers. In the summer of 1987, Brian was fourteen years old and Stephen was thirteen years old. At the time both Brian and Stephen were Boy Scouts. The defendant was the scoutmaster of their troop, which he had organized. The troop was comprised of scouts who were mentally retarded, physically disabled, and emotionally disturbed, though the record does not indicate that either Brian or Stephen was mentally retarded, physically disabled or emotionally disturbed. During summer camp in 1987, the defendant praised Brian in front of the other scouts who then elected Brian senior patrol leader. Once Brian was elected senior patrol leader, the defendant worked closely and maintained frequent contact with him.

Brian testified that he respected the defendant and that he thought that the defendant was "the greatest guy in the world." Brian's admiration was the product, at least in part, of the defendant's recounting of his personal adventures which allegedly included experience as a narcotics agent, a Vietnam veteran, and an agent with the Central Intelligence Agency. The defendant also told Brian that he could predict the future because he had ESP (extra-sensory perception).

It is undisputed that in October, 1987, the defendant asked Brian to accompany him on a trip to Connecticut. The stated purpose of the trip was to pick up furniture and transport it back to the Boston area. The defendant and Brian travelled in the defendant's truck.

At trial, Brian testified that the defendant took him to the defendant's home in Acton on the way to Connecticut. There the defendant showed Brian a pornographic movie. After the movie, they departed. On arrival in Connecticut, Brian testified that the defendant drove to a church located in a "bad part of town." The defendant allegedly pointed out individuals entering into drug transactions. Brian testified that the scene made him nervous.

After the tour, the defendant drove to his wife's parents' home, which was located near the church. After entering the house, Brian testified that the defendant, who apparently sensed Brian's fear, told him that he could help him with his powers of ESP. The defendant told Brian that he can not always get "a real good picture" of the future using his powers of ESP. In order to get a clearer picture of the future, the defendant said, he needed to touch something other people touch, such as Brian's hands, and something that nobody else could touch, such as Brian's penis. The defendant attempted to grab Brian's penis. Brian pushed him away. Apparently relying on his powers of ESP, he defendant told Brian that bad things could happen if he let Brian out of the house.

Finally, Brian acquiesced. The defendant held Brian's penis. The defendant then told Brian that it would be even better if Brian could "come." The defendant placed Brian's penis in his mouth. Brian became unnerved and urinated in the defendant's mouth. The defendant got upset and went to bed.

The following day, Brian helped the defendant load the furniture onto the truck and then the two drove back to Brian's house. The defendant allegedly told Brian not to tell his parents because it would get the defendant in a lot of trouble. Brian testified that similar incidents occurred approximately one hundred times over the next year. The incidents occurred in the defendant's house, Brian's house, the defendant's truck, and at the defendant's place of employment. The last incident took place in January, 1989.

In the fall of 1988, Brian learned that the defendant wanted to take his younger brother, Stephen, who had also been elected senior patrol leader, to Connecticut. Although Brian never told Stephen what the defendant had been doing to him, Brian told Stephen that the defendant was a "fag" and told his mother that he did not think that Stephen should go to Connecticut.

The defendant and Stephen nonetheless departed for Connecticut. Stephen testified that on the way the defendant reached over and tried to grab his crotch. On arrival at the home of his wife's parents, the defendant played a pornographic movie for Stephen. After the movie, the defendant told Stephen that he wanted to show him what some of the things that were going on in the pornographic movie would feel like. The defendant then placed Stephen's penis in his mouth and performed fellatio. During the return trip, the defendant told Stephen that the incident was their secret and that his parents would not like him if they found out. Over the next few months numerous similar incidents occurred between the defendant and Stephen in the defendant's home, in his automobile, and at the defendant's place of employment. The last incident between the defendant and Stephen occurred in October, 1988. In March, 1989, Brian told his

mother of his incidents with the defendant. In July, 1989, she learned of the incidents between Stephen and the defendant.

The defendant testified to a markedly different relationship with Brian and Stephen from that which the boys described. The defendant maintained that his relationship with Brian and Stephen was one of a scoutmaster and scout. The defendant denied allegations of sexual impropriety with the boys. The defendant testified that he did travel to Connecticut with the boys, but denied charges of sexual misconduct. The defendant further testified that he knew the alleged victims' parents socially and visited their home on average once or twice a week during the period April, 1987 to July, 1989, and that the boys had visited his home six or seven times for the purpose of observing his menagerie and furthering other scouting-related interests. It was the defendant's testimony that during these visits, his wife was almost always at home and that seventy-five per cent of the scouts in the troop visited his home.

In May, 1990, a Middlesex County grand jury returned four indictments charging the defendant with having unlawful sexual intercourse or unnatural sexual intercourse and abuse of two children under the age of sixteen. In July, 1990, the defendant was tried before a jury in Superior Court. The jury found the defendant guilty on three indictments. The defendant, asserting various grounds, appeals. We transferred the case to this court on our own motion. For the reasons set forth below, we affirm the convictions.

1. *Grand jury proceedings.* Prior to trial, the defendant filed a motion to dismiss the indictments because the victims' testimony was videotaped and replayed to the grand jury. The defendant argues that the victims' failure to testify in person before the grand jury impermissibly tainted the grand jury proceedings.[1]

The defendant's argument is without merit. It is axiomatic that an indictment may be based entirely on hearsay. See Mass. R. Crim. P. 4 (c), 378 Mass. 849 (1979). The video-

[1]The victims testified at trial.

taped testimony presented to the grand jury is hearsay testimony. It is not enough for the defendant to assert that live testimony was available for presentation to the grand jury. See *Commonwealth* v. *St. Pierre*, 377 Mass. 650, 655 (1979), citing *Commonwealth* v. *Robinson*, 373 Mass. 591, 592 (1977). "We have, however . . . stressed our position — and do so again — that sound policy dictates a preference for the use of direct testimony before grand juries." *Commonwealth* v. *St. Pierre*, *supra* at 655-656. The defendant would have us elevate sound policy to a rule of law — a route we decline to take. Further, the defendant's reliance on *Commonwealth* v. *Bergstrom*, 402 Mass. 534 (1988), is misplaced as *Bergstrom* involved the introduction of testimony of a child witness by electronic means during the course of a criminal trial, circumstances distinguishable in fact and in law from the present case.

2. *The victims' psychological and medical records.* The defendant claims that the motion judge erred in refusing to disclose certain psychological and medical records to the defendant. The pertinent facts are as follows. Prior to trial the defendant moved to compel production of the victims' psychological records resulting from a Dr. Elaine Orabona's examination of the victims during August, 1989. The judge allowed the motion insofar as the judge examined Dr. Orabona's records in camera "to determine whether there are statements of the children which are discoverable."[2] The judge did not disclose Dr. Orabona's records to defense counsel or to the prosecutor.

Prior to trial the defendant also moved to compel production of the victims' medical records in the possession of the Hanscom Air Force Base Medical Clinic (clinic) "including, but not limited to," the results of laboratory tests and the physical examinations performed by a Dr. Hayes in August,

[2]Although the motion judge did not expressly so rule, the record reveals that Dr. Orabona's records are apparently privileged pursuant to G. L. c. 233, § 20B (1992 ed.).

1989.[3] At a hearing on the motion, defense counsel argued that the judge should at least review the records in camera "with regard to whether there is anything exculpatory in [the] records at all." The assistant district attorney agreed to an in camera review of the "physical" reports but argued that the other medical records were privileged and that there had been no preliminary showing of need for disclosure.[4] Alternatively, the assistant district attorney argued that the other medical records were irrelevant.

The judge allowed the motion to compel production of the results of the laboratory tests and the physical examinations from the dates of the alleged abuse to the physical examination conducted by Dr. Hayes in August, 1989. The motion judge, however, denied the motion with regard to "[e]ntries dealing with psychiatric and mental health assessments and treatment" contained in the clinic's records. The motion judge did not expressly rule on the privileged nature of the undisclosed records.

The defendant relies on *Commonwealth* v. *Stockhammer*, 409 Mass. 867 (1991), and argues that the judge's refusal to allow defense counsel to review the psychological records and the undisclosed clinic records, even though privileged, violates his right to a fair trial under art. 12 of the Massachusetts Declaration of Rights and warrants reversal of his convictions.

We start with the proposition that, when relevant evidence is excluded from the trial process for some purpose other than enhancing the truth-seeking function, the danger of convicting an innocent defendant increases. Relevant evidence refers to any evidence which has a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. See Fed. R. Evid. 401. See

[3]The motion at issue is captioned, "Motion to Compel Production of Medical Records."

[4]The Commonwealth did not proffer a basis for its argument that the records were privileged.

also P.J. Liacos, Massachusetts Evidence 408-409 (5th ed. 1981). "[D]isclosure, rather than suppression, of relevant materials ordinarily promotes the proper administration of criminal justice." *Commonwealth* v. *Wilson*, 529 Pa. 268, 285 (Zappala, J., dissenting), cert. denied sub nom. *Aultman* v. *Pennsylvania*, 112 S. Ct. 2952 (1992), quoting *Dennis* v. *United States*, 384 U.S. 855, 870 (1966). The Supreme Court of the United States has stated, "Our cases establish, at a minimum, that criminal defendants have the right to . . . put before a jury evidence that might influence the determination of guilt." *Pennsylvania* v. *Ritchie*, 480 U.S. 39, 56 (1987), and cases cited.

On the other hand, revelation of privileged information adversely affects the purposes underlying the need for the confidential relationship and serves as a disincentive to the maintenance of such relationships. "If it becomes known that confidences are violated, other people may be reluctant to use [confidential services] and may be unable to use them to maximum benefit. The purpose of enacting a . . . privilege is to prevent the chilling effect which routine disclosures may have in preventing those in need from seeking that help." *Commonwealth* v. *Collett*, 387 Mass. 424, 428 (1982). One need not venture far to see the force of this position; victims of rape or sexual abuse would likely shy away from forthright therapeutic sessions with their counsellors if their words were later lent to the perpetrator in aid of his or her defense.

In balancing these competing interests, we recognize that in *certain* circumstances a defendant must have access to privileged records so as not to undermine confidence in the outcome of trial. See *Commonwealth* v. *Two Juveniles*, 397 Mass. 261, 266 (1986). This is not to say, however, that a defendant charged with rape or sexual abuse must have access to a victim's privileged records in *all* circumstances. As the Appeals Court recently wrote, the prior pertinent decisions of the Supreme Judicial Court do not stand for the proposition that, "in any trial for rape or sexual assault, the defendant shall have access to all the medical and counseling records of the complainant from the time of birth." *Commonwealth* v. *Jones*, 34 Mass. App. Ct. 683, 685 (1993). See *Pennsylvania* v. *Ritchie*, 480 U.S. 39, 61 (1987).

The issue then devolves to the need to articulate a standard that judges can apply to identify those circumstances in which disclosure of the victim's records privileged by statute is required to provide the defendant a fair trial. It may be said that the controverted privilege shall be pierced in those cases in which there is a reasonable risk that nondisclosure may result in an erroneous conviction. Our charge, then, is to describe a standard that defines the line between a less inclusive standard (disclosure is not ordered when it should be ordered) and an overly inclusive standard (disclosure is ordered when it should not be ordered), resolving any doubt in favor of disclosure.

The vexatious nature of the task at hand is best illustrated by the timing and sequence of events culminating in a judge's decision on a defendant's motion to compel production of privileged records. For it is at this point that the battle over disclosure of the privileged records has been joined. Yet, the issue remains uncrystallized, for in most cases the defendant, counsel, and the judge have not yet seen the privileged records and do not know what they contain. At this stage in the proceedings, a defendant's claim that nondisclosure of the privileged records violates his or her right to a fair trial is tenuous as the defendant has not established the existence of exculpatory or even relevant information in the privileged records. Indeed, full disclosure, predicated solely on a defendant's uninformed request may yield nothing for the defense, and the privilege would have been pierced unnecessarily.

In the leading case of *Commonwealth* v. *Two Juveniles*, *supra*, which concerned records privileged pursuant to G. L. c. 233, c. 20J (1992 ed.) (sexual assault counsellor privilege), we placed the burden of demonstrating the need to pierce the statutory privilege on the defendant, and said, in dictum, that "[b]efore any . . . inspection of the privileged material can be justified, the defendant must show a legitimate need for access to the communications." *Id.* at 269. On such a

showing, the judge then would review the subject records in camera, allowing defense and the prosecutor access to portions of the communications deemed material, necessary, or useful. See *Commonwealth* v. *Stockhammer*, *supra* at 882.

In the cases that followed *Two Juveniles*, the definition of the defendant's threshold burden exhibited a chameleon-like nature, evading uniform formulation. Compare *Commonwealth* v. *Two Juveniles*, *supra* at 269 (defendant must show "legitimate need"), and *Commonwealth* v. *Clancy*, 402 Mass. 664, 670 (1988) (defendant never articulated "any particular need"), with *Commonwealth* v. *Jones*, 404 Mass. 339, 343-344 (1989) (defendant demonstrated "realistic and substantial possibility" that file contained information helpful to his defense). See *Commonwealth* v. *Figueroa*, 413 Mass. 193 (1992), and *Commonwealth* v. *Stockhammer*, 409 Mass. 867 (1991). However, we now affirm the proposition that a defendant must show, at a minimum, a likelihood that the records contain relevant evidence to justify initial judicial review.[5]

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[5]The *Two Juveniles* rule comports with the decisions of a vast majority of courts that have spoken on the issue and have required a threshold showing of some degree to justify piercing a privilege. See *State* v. *Howard*, 221 Conn. 447, 457 (1992) (defendant must show that "reasonable ground to believe" that failure to produce records would likely impair right to impeach witness); *Stripling* v. *State*, 261 Ga. 1, 6 (no in camera review absent reasonably specific request for relevant and competent information), cert. denied, 112 S. Ct. 593 (1991); *People* v. *Foggy*, 121 Ill. 2d 337, 349-350 (no in camera review absent any demonstrated need), cert. denied, 486 U.S. 1047 (1988); *Zaal* v. *State*, 326 Md. 54, 81-82 (1992) (defendant must show some relationship between the charges, the information sought, and the likelihood that relevant information exists in the records); *State* v. *Hummel*, 483 N.W.2d 68, 72 (Minn. 1992) (no in camera review absent plausible showing that information material and favorable); *State* v. *Gagne*, 136 N.H. 101 (1992) (to trigger in camera review defendant must show reasonable probability that the records contain information that is material and relevant); *State* v. *Cusick*, 219 N.J. Super. 452, 457 (1987) (court found records may be necessary for determination of issue prior to in camera review); *State* v. *S.H.*, 159 Wis. 2d 730, 738 (Ct. App. 1990) (in camera review if defendant shows records contain material evidence); *Gale* v. *State*, 792 P.2d 570, 581 (Wyo. 1990) (adopting *Ritchie* standard).

In *Commonwealth* v. *Stockhammer*, 409 Mass. 867 (1991), we considered whether in camera review of privileged records, under the *Two Juveniles* model, adequately protected the defendant's right to a fair trial under art. 12 of the Massachusetts Declaration of Rights. In rejecting the in camera prong of the *Two Juveniles* model, we held that "[t]he danger lurking in the practice of . . . in camera review [of privileged documents] by the trial judge is a confusion between the roles of trial judge and defense counsel. The judge is not necessarily in the best position to know what is *necessary* to the defense" (emphasis supplied). *Id.* at 882, quoting *Commonwealth* v. *Clancy*, 402 Mass. 664, 670 (1988). The admissibility of the disclosed records at trial is to be determined in the usual fashion.

We seek to avoid an overly inclusive, or overly broad result, one that would allow defense counsel controlled access to privileged records merely on a showing that the records are likely to be relevant to an issue in the case.[6] The records in such a circumstance may contain nothing that would aid the defense; if so, the privilege would have been pierced unnecessarily.

Accordingly, we hold that the defendant must show, at the threshold, that records privileged by statute are likely to con-

Two courts have held that a defendant cannot discover privileged records absent the consent of the holder of the privilege. See *People* v. *District Court*, 719 P.2d 722, 727 & n.3 (Colo. 1986) (en banc); *Commonwealth* v. *Wilson*, 529 Pa. 268, 285, cert. denied sub nom. *Aultman* v. *Pennsylvania*, 112 S. Ct. 2952 (1992). West Virginia apparently permits limited disclosure to counsel for the purpose of an in camera relevancy hearing without a threshold showing of any kind. See *State* v. *Allman*, 177 W. Va. 365 (1986).

[6]There is, of course, a danger in requiring the defendant to make too substantial a showing to justify piercing a privilege. A threshold requirement, so framed, could place the defendant in a "Catch-22" situation. "To gain access to the privileged records defendant must specifically allege what useful information may be contained in the target records. However, defendant has no way of making these specific allegations until he has seen the contents of the records." *People* v. *Foggy*, *supra* at 359 (Simon, J., dissenting). Such a requirement would produce a less-inclusive result in that possibly material, or even exculpatory, communications would remain undiscovered.

tain relevant evidence. If the judge finds, based on the defendant's proffer, that the records are likely to be relevant to an issue in the case, the judge shall review the records in camera to determine whether the communications, or any portion thereof, are indeed relevant.

During this relevancy determination stage, the defendant need not make a showing that the records *actually* contain information that carries, for example, the potential for establishing the unreliability of either the criminal charge or a witness on whose testimony the charge depends. The defendant must, however, advance, in good faith, at least some factual basis which indicates how the privileged records are likely to be relevant to an issue in the case and "that the quest for its contents is not merely a desperate grasping at a straw." *People* v. *Gissendanner*, 48 N.Y.2d 543, 550 (1979); *People* v. *Pena*, 127 Misc. 2d 1057, 1058-1060 (N.Y. Sup. Ct. 1985).[7] In considering the defendant's request the judge may consider, among other things, the nature of the privilege claimed, the date the target records were produced relative to the date or dates of the alleged incident, and the nature of the crimes charged.

The in camera process we have described today differs in its design and purpose from that which we rejected in *Stockhammer*. Under the pre-*Stockhammer* procedure, the judge was called upon to inspect and identify privileged material that was necessary or material to the defense. See *Commonwealth* v. *Stockhammer*, *supra* at 882. Here, we call upon the judge to review and identify only *relevant* materials, a task and term with which every judge is familiar.

Nonetheless, we are aware that the in camera review procedure denies the defendant the benefit of an advocate's eye in reviewing privileged records to determine whether any

[7]We do not encroach on the well-settled principle that "the government has the obligation to turn over evidence in its possession that is both favorable to the accused and material to guilt or punishment." *Commonwealth* v. *Jones*, 404 Mass. 339, 343 (1989), quoting *Pennsylvania* v. *Ritchie*, 480 U.S. 39, 57 (1987).

communications contained in the records are relevant. Yet, to allow full disclosure on a showing that the records are likely to be relevant to an issue in controversy would, however, cut against the purposes underlying the subject statutory privilege without so much as a confirmed need to do so. "Though the disclosure to the judge divulges the . . . privileged information, it is a practical necessity." *Commonwealth* v. *Collett*, 387 Mass. 424, 438 (1982).

The identification of relevant privileged materials, however, is only the first step in the process that we announce today. Once the trial judge determines that the privileged records do, indeed, contain relevant communications, the judge shall allow defense counsel and the prosecutor access to the relevant privileged materials for the limited purpose of determining, on motions by the parties, whether disclosure of the relevant communications to the trier of fact is required to ensure the defendant a fair trial. See *Pennsylvania* v. *Ritchie*, *supra* at 57 ("Evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A 'reasonable probability' is a probability sufficient to undermine confidence in the outcome.") (Citation omitted.) From the filing of the defendant's initial motion to compel production, the procedure we contemplate is as follows.

Stage 1 — privilege determination. A criminal defendant in a case of rape or sexual abuse moves to compel production of the various records pertaining to the complainant. If the complainant or the keeper of the target records refuses to produce the records because of a statutory privilege against disclosure, the fact is brought before the judge. The judge shall then decide whether the records are privileged. The judge shall reduce his or her decision, and the reasons therefor, to writing, with specific reference to the privilege or privileges claimed and found, if any.

Stage 2 — relevancy determination. On notice of the judge's written finding that the target documents are privileged, defense counsel shall submit to the judge, in writing, the theory or theories under which the particular records

sought are likely to be relevant to an issue in the case. If the judge decides that the records are not likely to be relevant or that the defendant's request is supported only by a desire to embark on "an unrestrained foray into confidential records in the hope that the unearthing of some unspecified information would enable [the defendant] to impeach the witness," *People* v. *Gissendanner*, *supra* at 549, the judge shall deny the request.[8]

If, on the other hand, the judge decides that the defendant's proffer shows that the records are likely to be relevant to an issue in the case, the judge shall review the records in camera, out of the presence of all other persons, to determine whether the communications, or any portion thereof, are relevant. The judge should identify the irrelevant materials so that in the case of conviction and appeal they may be sealed and transmitted to the reviewing court.

Stage 3 — access to relevant material. The judge shall allow defense counsel and the prosecutor access to the relevant portions of the privileged records for the sole purpose of determining whether disclosure of the relevant communications to the trier of fact is required to provide the defendant a fair trial.

The judge shall ensure that breaches of confidentiality attending access to the relevant portions of the privileged records are limited only to those absolutely and unavoidably necessary. Any records so examined shall be subject to a protective order of the type presented in the Appendix to this opinion to ensure that the information will not be divulged beyond the extent required for the purpose stated above. The judge shall allow counsel access to the privileged records only in their capacity as officers of the court.

Stage 4 — disclosure of relevant communications. The burden is on the defendant to demonstrate that disclosure of the relevant portions of the records to the trier of fact is required to provide the defendant a fair trial. If the defendant

[8]The judge may postpone a decision on a pretrial request to discover privileged records, thereby allowing the issue to mature.

meets this burden, the judge shall permit the disclosure of those portions of the records which are shown to be needed for the purpose of preparing and mounting a defense.[9] The judge may condition disclosure on appropriate terms and conditions. In arriving at this determination the judge shall resolve any doubt he or she may have in the defendant's favor. The judge shall base his or her decision on written motions by the parties and an in camera hearing as the judge deems necessary. In any case, the judge shall set forth in writing the reasons for the decision in a memorandum of decision. The judge should identify any undisclosed materials so that in the case of conviction and appeal they may be sealed and transmitted to the reviewing court.

Stage 5 — trial. At trial, the judge shall determine the admissibility of the records that counsel may wish to introduce in a voir dire examination. In considering the admissibility of the records the judge shall be mindful of the requirements of the rape shield statute, G. L. c. 233, § 21B (1992 ed.). We pause to note that "the duty to disclose is ongoing; information that may be deemed immaterial upon original examination may become important as the proceedings progress, and the court would be obligated to release information material to the fairness of the trial." *Pennsylvania* v. *Ritchie*, *supra* at 60.

In the present case, the dispute concerns certain psychological and medical records. We consider each in turn.

Psychological records. The defendant argues that the motion judge's decision to review the Dr. Orabona's records in camera constitutes reversible error. The defendant is mistaken. At best, the defendant demonstrated to the judge that the subject records were likely to be relevant to an issue in the case. Thus, the defendant was entitled to in camera re-

[9]We pause to note that admission of, or reference to, privileged material at trial could be conditioned on a determination (made after an in camera hearing) that the information counsel seeks to use is not available from any other source. See *Commonwealth* v. *Stockhammer*, 409 Mass. 867, 882-883 (1991).

view by the judge, which is precisely what the judge conducted.

The basis of the judge's decision not to release the records to the parties after the in camera review, however, is not contained in the record. Accordingly, and in view of the procedure articulated above, we remand this aspect of the case to the Superior Court where the judge shall conduct a Stage 2 in camera examination and rule on the relevance of Dr. Orabona's records. If, after the in camera examination, the judge finds that the records are indeed relevant, the judge shall permit defense counsel and the prosecutor access, consistent with the Stage 3 disclosure protocol described earlier. After reviewing the records under this procedure the defendant may make a motion for a new trial in the usual manner.

Medical records. The defendant argues that the judge's refusal to allow defense counsel to review all of the clinic's medical records pertaining to the victims, including those provisions that concern any psychiatric or mental health assessments, warrants reversal of his convictions. We disagree. Neither the defendant nor the Commonwealth disputes the privileged nature of the records, although neither party cites authority supporting the assumption that the records are indeed privileged. Further, the motion judge did not rule on the privileged nature of the undisclosed records.

Accordingly, and in view of the procedure articulated above, we remand this aspect of the case to the Superior Court where the judge, on proper motions, shall rule on the privileged nature of the undisclosed clinic records. If the judge rules that the undisclosed clinic records are not privileged, then the judge shall release the records to the parties. After reviewing the records defense counsel may make a motion for a new trial in the usual manner.

If, on remand, the judge rules that the records are privileged from disclosure, then the defendant shall submit in writing the theory or theories under which the particular records are likely to be relevant to an issue in the case. If the judge finds that the records are likely to be relevant to an issue in the case, the judge shall review the subject records in

camera to determine whether the records or a portion thereof are indeed relevant. If, after the in camera review, the judge finds that the records are indeed relevant, the judge shall permit defense counsel and the prosecutor access, consistent with the Stage 3 disclosure protocol described above. After reviewing the records, the defense counsel may make a motion for a new trial in the usual manner.

3. *The victims' school records.* The defendant moved to compel production of all the victims' middle school and high school records because he believed the records contained information that affected the victims' credibility. In support of his request the defendant advanced his belief, unsupported by affidavit, that the victims may be learning disabled, and that the school records would cast light on this issue. The defendant apparently assumes that a learning disability adversely affects credibility. The defendant specifically requested the school attendance records because Brian had indicated that the alleged abuse had often occurred at his home around noontime on days he had stayed home from school. The Commonwealth argued that the school records were irrelevant. The judge allowed the motion in part, granting the defendant access to Brian's attendance records covering the periods of alleged abuse. The judge denied the defendant's request for school records outside the time frame in which the alleged abuse occurred. The judge wrote that the defendant failed to make a sufficient showing as to the need for the other records.

On appeal the defendant argues, under art. 12 of the Massachusetts Declaration of Rights, that the motion judge's denial of his request for production of all of the school records denied him a fair trial, and that, for this reason, his convictions must be reversed. We disagree.

"There is no privilege which would prevent the introduction of relevant school records in evidence at a trial." *Commonwealth* v. *Beauchemin*, 410 Mass. 181, 185 (1991). Contrary to the defendant's belief our holding in *Beauchemin* does not aid his argument, rather it seals its fate. The operative word is relevant. The defendant is entitled to discover

relevant information. See Mass. R. Crim. P. 14 (a), 378 Mass. 874 (1979). The judge allowed the defendant access to the relevant records covering the period of alleged abuse. The defendant does not assert, and the record does not reveal, any theory under which the undisclosed records are relevant. While the motion judge did not deny the defendant's request explicitly on these grounds, our review of the transcript leads us to conclude that the judge's decision was not in error. The defendant's reliance on *Commonwealth* v. *Gauthier*, 32 Mass. App. Ct. 130, 135 (1992), is misplaced as *Gauthier* involved school records privileged under G. L. c. 71B, § 3 (1992 ed.), a factual situation distinguishable from that in the present case.

4. *Unrelated accusation.* The trial judge refused to permit the defendant to cross-examine the victims concerning allegedly prior false allegations of sexual misconduct against another scoutmaster. One allegation concerned a game not entirely dissimilar to "strip" poker and the other concerned the use of a hand puppet to pat down the scouts in their sleeping bags to make certain that they were wearing underwear as the required sleeping nightwear. The defendant's reliance on *Commonwealth* v. *Bohannon*, 376 Mass. 90, 95 (1978), *S.C.*, 385 Mass. 733 (1982), is misplaced for several reasons, not the least of which is *Bohannon's* requirement that there be a factual basis for concluding that the victims or one of them had made the allegations and that the allegations were false. The record here indicates that neither victim made the allegations and that the allegations were true.

5. *Bill of particulars.* The defendant claims that he was not furnished sufficient details of the allegations in the indictments to prepare a defense. The defendant is entitled to "reasonable notice of the crime charged, including time, place, manner, or means." Mass. R. Crim. P. 13 (b) (1), 378 Mass. 871 (1979).

The victims were young teenagers who were sexually molested repeatedly over a number of months. They did not keep a journal of the exact time and date of each assault. However, the defendant was informed from the indictments

that the assaults occurred from September, 1987, to October, 1988, in one case, and from the late summer to October, 1988, in the other case. The Commonwealth specified that some of the assaults were perpetrated at the victims' home on weekdays when they were not in school and that other assaults took place at the defendant's home, even while his wife and daughter were there. He was informed that most of the assaults occurred at his place of business on Saturday afternoons or Sundays. The defendant offered evidence in rebuttal. He does not argue that he would have presented his defense any differently had he known the exact dates and times of the alleged assaults. See *Commonwealth* v. *King*, 387 Mass. 464, 468 (1982). There is no merit to the defendant's complaint of lack of specificity. See *Commonwealth* v. *Montanino*, 409 Mass. 500, 512 (1991).

6. *Fresh complaint.* The defendant argues that the judge erred in admitting complaints of the defendant's conduct made by the victims to their mother because the complaints were stale. We have said that there is no wooden rule of law as to the time within which a victim of a sexual assault must make a complaint for such complaint to be admissible in evidence as a fresh complaint. *Commonwealth* v. *Amirault*, 404 Mass. 221, 228-229 (1989). Whether a complaint is made with sufficient promptness is left to the sound discretion of the trial judge. See *Commonwealth* v. *Sherry*, 386 Mass. 682, 691 (1984). We have not insisted on demanding promptness when the victim has been a child. See *Commonwealth* v. *Comtois*, 399 Mass. 668, 672-673 n.9 (1987).

Brian testified that the defendant began abusing him sexually in October, 1987, when he was fourteen years old and that the last incident occurred in January, 1989, when he was sixteen years old. He told his mother about them in March, 1989, two months after the last incident.

Stephen testified that the defendant began raping him in the summer of 1988 and that the last incident occurred in October, 1988, when he was fourteen years old. When his mother in July, 1989, asked him whether the defendant had raped him, he burst into tears.

These complaints were well within the boundaries of "freshness" in light of the victims' ages. See *Commonwealth* v. *Amirault*, *supra* at 228-229 (eighteen-month delay); *Commonwealth* v. *Comtois*, *supra* (two-month delay); *Commonwealth* v. *Hyatt*, 31 Mass. App. Ct. 488, 491-492 (1991) (two-year delay). There was no error in permitting the victims' mother to testify as to the details of the victims' complaints. See *Commonwealth* v. *Scanlon*, 412 Mass. 664, 670 (1992).

The judge instructed the jury as to the proper evidentiary status of fresh complaint when the evidence was admitted and again in his charge. The judge told the jury of the exclusively corroborative purpose of such evidence. Quite properly, the defendant did not object because there was no error. See *Commonwealth* v. *Scanlon*, *supra*.

7. *The prosecutor's closing argument.* Despite his failure to object, the defendant asserts reversible error in the final argument of the prosecutor. We have examined the argument with care. It was a strong but proper final argument. We need not consider whether there was a substantial risk of a miscarriage of justice because we perceive no prosecutorial errors.

8. *Ineffective assistance of counsel.* The defendant's argument of ineffective assistance of counsel concerns essentially three instances: (1) the admission of instructions on fresh complaint, (2) the prosecutor's final argument, and (3) sentencing. We have already concluded that there was no judicial error in the management of the fresh complaint evidence and instruction and in the prosecutor's final argument. Therefore, there is no merit in these two categories to a claim of ineffective assistance of counsel.

At sentencing, defense counsel pointed to the defendant's age, unblemished military record, and absence of a criminal record. The defendant himself addressed the court and spoke of his military career, and his accomplishments as a father and scoutmaster. A review of the record reveals no deficiency in the conduct of defense counsel which requires reversal.

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Accordingly, the judgments are affirmed. The cases are remanded to the Superior Court for action consistent with this opinion.

So ordered.

APPENDIX.

MODEL ORDER

Upon consideration of the defendant's motion for discovery of the victim's treatment records and pursuant to *Commonwealth* v. *Bishop*, 416 Mass. (1993), it is hereby ORDERED [notwithstanding the provisions of G. L. c. 66A (1992 ED.),]* that such records be produced to counsel subject to the following terms and conditions:

1. Counsel shall have access to the records solely in their capacity as officers of the court. Counsel shall not disclose or disseminate any portion of the contents of the treatment records to anyone, including the defendant, without prior application to and an order of the court. [Counsel shall notify the Department of Social Services (DSS) and all third-party data subjects referred to in those records before making such application.]*

2. The treatment records sought by the defendant shall be made available to counsel in the Court House during regular business hours under arrangements to be made by the clerk. Counsel may read and make notes concerning the treatment records, but no portion of the treatment records shall be photocopied or reproduced without prior application to and an order of the Court. [Counsel shall notify DSS and all third-party data subjects referred to in those records before making such application.]*

3. Counsel shall not offer or adduce any portion of the victim's treatment records in evidence at trial or in connection with any other proceeding except on order of the Court. [Counsel shall notify DSS and all third-party data subjects referred to in those records before making such application.]

4. At the conclusion of any trial or other disposition of this action, counsel shall deliver to the clerk, under seal, all originals and all copies of any treatment records produced to counsel for the defendant pursuant to any subsequent order of the court.

_____ _____
Dated Justice

*Language in brackets applies only to records of the Department of Social Services (DSS) or other State agencies, which must comply with the Fair Information Practices Act, G. L. c. 66A (1992 ed.).

COMMONWEALTH *vs.* NICKOLAS SYRAFOS.

No. 94-P-1136.

Barnstable. November 16, 1994. - March 6, 1995.

Present: SMITH, KAPLAN, & PORADA, JJ

Practice, Criminal, Stipulation. *Rape. Evidence*, Medical record, Expert opinion, Relevancy and materiality, Sexual conduct, Cross-examination.

At a rape trial, there was no error in the judge's denying the defendant access to certain hospital records of the victim for treatment given more than two years before the alleged incident, where the defendant made no showing that the records were likely to be relevant. [213-214]

At the trial of an indictment for rape, where defense counsel had access, under court order, to certain treatment records of the victim, the judge did not err in denying the defendant's request to disclose the records or their contents to a mental health expert, where the defendant did not demonstrate that such disclosure was required to provide him a fair trial. [215-216]

At a rape trial, the defendant's claim that he was deprived of an opportunity to introduce evidence of the victim's statements to the defendant when they were alone was frivolous, where the victim denied making the statements and the defendant did not testify. [217]

At a rape trial the judge correctly excluded the defendant's proposed questions about the victim's alleged recent sexual conduct, where the defendant did not show any basis under G. L. c. 233, § 21B, for admission of evidence of specific instances of the victim's alleged sexual conduct. [217]

At the trial of a rape indictment, there was no error, in the circumstances, in the judge's excluding the defendant's proposed questions to the victim regarding the two previous times she was raped and the psychiatric problems stemming from those incidents. [217-219]

At a rape trial, the defendant was not prejudiced by the judge's limitation of the defendant's cross-examination of the victim, where it was clear that many of the questions the defendant proposed to ask had no basis in the evidence, and in any event, the defendant did not show he was prejudiced by the restriction. [219]

There was no merit to a criminal defendant's claim that the judge incorrectly instructed the jury. [219-220]

INDICTMENT found and returned in the Superior Court Department on November 4, 1991.

A motion to examine certain treatment records of the complainant was heard by *Herbert F. Travers*, J., and the case was tried before *Gerald F. O'Neill, Jr.*, J.

Murray P. Reiser for the defendant.

Julia K. Holler, Assistant District Attorney, for the Commonwealth.

SMITH, J. Convicted by a jury of the crime of rape, on appeal, the defendant claims that the judge committed error by (1) denying a motion to examine certain treatment records of the victim, (2) denying motions requesting permission to disclose contents of treatment records of the victim to an expert, (3) denying a G. L. c. 233, § 21B, motion, (4) limiting cross-examination of the victim, and (5) misinstructing the jury.

The jury could have found the following facts from the evidence. The victim, seventeen years old, resided with her foster mother in Falmouth. The foster mother's former boyfriend had borrowed a chainsaw from the defendant. A couple of months before October 19, 1991, the day of the incident for which the defendant was on trial, the defendant appeared at the foster mother's home, inquiring about the chainsaw. The foster mother told him she did not have the chainsaw and that she did not want him coming by the house.

Despite the foster mother's response, the defendant, about two weeks before October 19, again appeared at the foster mother's residence, inquiring about the chainsaw. This time, the foster mother was not at home. He was let into the house by a babysitter. The victim was sitting on a couch, a blanket over her legs. The defendant kept uncovering the victim's legs, commenting what nice legs she had. The defendant eventually left the premises.

On the morning of October 19, the defendant went to the convenience store where the foster mother worked and again asked her for the chainsaw. He left immediately afterward and went to the foster mother's home. He knocked on the door, and the victim responded. The victim, who had just awakened, was wearing underwear and a long shirt which covered her torso. The defendant asked if the foster mother was home and again asked about the chainsaw. Because of the way she was dressed, the victim went to her bedroom and put on some shorts. The defendant went to another bedroom and called the victim into that room. When she went into the bedroom, the defendant threw her onto the bed and, according to the victim, raped her. After the defendant left, the victim told a friend, her foster mother, and the police what had happened.

The theory of the defense was that the victim consented to the sexual intercourse. The defendant did not testify. Rather, after the Commonwealth rested, the jury was informed that the Commonwealth and the defendant had entered into the following stipulation: "[O]n October 19, 199[1], the defendant . . . had sexual intercourse with [the victim]." See *Commonwealth* v. *Triplett*, 398 Mass. 561, 570 (1986)(["i]f controvertible facts are agreed to by stipulation, those facts no longer are at issue and must be accepted by the fact finder").

1. *The issues relating to the denial of certain of the defendant's motions.* After the October 19 incident, the victim was treated as an outpatient over an extended period of time at a mental health facility (the clinic). The records of that treatment were given by the Commonwealth to the defendant. The records disclosed that the victim had also been treated, as an outpatient, at the clinic starting in 1989 and ending some months before the October, 1991, incident. Those records were not given to the defendant, and the defendant filed a motion requesting the court to order the Commonwealth to produce treatment and school records of the victim for the period January 1, 1988, to October 19, 1991, the date of the incident.

After a hearing, the judge allowed the defendant to examine the treatment and school records of the victim for the period commencing two years before and ending two years after the October 19 incident. The judge also ordered the defendant not to disclose or disseminate any portion of the con-

tents of the records to anyone without further order of the court.

a. *Claim of lack of access to certain records.* Defense counsel had learned from his examination of the clinic records that the victim had been treated at a psychiatric hospital in 1988. At the hearing, the defendant requested that he be allowed to examine the hospital records. The judge denied access to the hospital records because the defendant did not disclose how those records were likely to be relevant. *Commonwealth* v. *Bishop*, 416 Mass. 169, 180 (1993). Despite the fact that the denial of access to the psychiatric hospital records was without prejudice, the defendant did not renew his request. There was no error.[1]

b. *Denial of motion to disclose contents of victim's records to mental health expert.* After examining all of the clinic records, that is, the records of the treatment of the victim both before and after the October 19 incident, the defendant filed a motion requesting permission from the judge to allow him to show the records to a mental health expert "for purposes of preparing and mounting a defense in this criminal action."

In support of his motion, the defendant claimed that the records showed that the victim had been previously (before age ten) raped by her father and by a former therapist, and, as a result, the victim suffered from various psychological problems. According to the defendant, "[o]ften victims of childhood incest have flashbacks of prior rapes at the time they are having sexual intercourse," and "[i]t was possible that the [victim] was experiencing a flashback of a previous incident of sexual abuse during or immediately after having consensual intercourse with the defendant and this resulted in her believing that the defendant raped her." Given this possibility, the defendant argued, it was important for him to obtain an expert opinion as to whether it was probable that the victim's psychiatric problems affected her ability to perceive, recollect, and recall the incident in question and to distinguish the October 19 incident from similar incidents that had occurred in the past.

[1] The defendant was allowed to have access to the victim's school records. He does not raise as an issue on appeal that he was denied access to her 1988 school records.

After examining the clinic records, the judge filed a memorandum of decision in which he denied the defendant's motion to disclose the contents of the records to a mental health expert. The judge found that (1) the defendant's claim that the victim suffered from a number of psychological problems, such as periods of mental blackouts, posttraumatic stress syndrome, suicidal ideas, memories of rape, distress, reminders of rape, and depression was not supported entirely by the records, (2) the defendant's claim that victims of childhood incest have flashbacks of prior rapes at the time they are having sexual intercourse was nothing more than "pop psychology" and not supported by any scientific evidence supplied by the defendant, and (3) the defendant's allegation that the victim may have had a flashback during sexual intercourse and, therefore, imagined she was being raped was also not supported by the records. The judge concluded that the purpose of the motion was to obtain an expert to render an opinion at trial that the victim had not been raped but engaged in consensual intercourse, and such testimony, in any event, would be inadmissible.

After the judge denied the motion, the defendant filed another motion, this time requesting that he be allowed to "verbally" disclose the contents of the victim's treatment records to a mental health expert. Again, the judge denied the motion, for the same reasons he had denied the "disclosure" motion. The defendant claims that the judge committed error in denying his motions. We disagree.

In *Commonwealth* v. *Bishop*, 416 Mass. at 182, the court stated that, after defense counsel has had access to the relevant portions of the privileged records, "[t]he burden is on the defendant to demonstrate that disclosure of the relevant portions of the records to the trier of fact is required to provide the defendant a fair trial." We think that the defendant has the same burden in regard to disclosure of the records to

a third person, including a mental health expert. Here, the defendant failed to meet that burden.

We have examined all of the clinic records, as did the trial judge. There is no question that the records disclose that, both before and after the October 19 incident, the victim suffered from some psychological problems such as depression, suicidal ideas and posttraumatic stress. There is nothing in the records, however, that supports the defendant's theory that the victim, after consenting to sexual intercourse, might have suffered a "flashback" and therefore believed she was raped. Nor is there anything in the records (or in the victim's testimony) that lends credence to the defendant's theory that the victim, because of her psychological problems, was not able to perceive, recollect, and recall the incident in question.

Even if an expert had been allowed to examine the clinic records and form an opinion, it is doubtful such testimony would have been admissible. The defendant admitted that he had sexual intercourse with the victim. It would not be within an expert's skills or special experience to testify that the sexual intercourse in this case was consensual, rather than forced. *Commonwealth* v. *Mendrala*, 20 Mass. App. Ct. 398, 403-404 (1985), citing *Commonwealth* v. *Montmeny*, 360 Mass. 526, 528 (1971). Further, the expert could not be called upon to render an opinion as to the victim's credibility. *Commonwealth* v. *Dickinson*, 394 Mass. 702, 706 (1985) ("witness cannot be asked to assess the credibility of his testimony or that of other witnesses"). It follows that the judge did not commit error in denying the defendant's motions to disclose, verbally or otherwise, the contents of the clinic records to a third party.

c. *Denial of G. L. c. 233, § 21B, motion.* On the first day of trial, the defendant filed a motion pursuant to G. L. c. 233, § 21B, seeking permission "to allow him to introduce evidence of the [victim's] sexual conduct with [the] defendant" and "recent [sexual] conduct of the [victim]." Further, the motion requested permission to question the victim about "her history of sexual abuse and its effect on her." The judge held an in camera hearing on the motion. After the hearing, the judge allowed the motion in part and denied it in part.

i. *Evidence of the victim's sexual conduct with defendant and recent conduct of the victim.* As to evidence of the victim's sexual conduct with the defendant, the defendant requested permission to introduce evidence that the victim had told the defendant on October 19 that (1) she had engaged in sexual intercourse with her boyfriend the night before the October 19 incident, (2) she had engaged in sexual intercourse with her foster mother's previous boyfriend, and (3) she wanted to have sexual intercourse with the defendant's son. The defendant argued that his defense was consent and that these statements had been made by the victim for the purpose of "sexually arousing the defendant." The judge allowed the defendant to ask the victim if she had made such statements. When asked on cross-examination, the victim testified that she had not. The defendant argues that he was deprived of the opportunity of showing that she made the statements.

The defendant's claim is frivolous. The only persons present at the time the statements were allegedly made were the victim and the defendant. The victim denied making the statements, the defendant did not testify, and there was nothing in the materials offered by the defendant to show that she had made the statements.

Further, the defendant argues that he should have been allowed to question the victim whether she had sexual intercourse with her boyfriend the night before the October 19 incident. There was no claim that, to track the language of the statute, "recent conduct of the victim [was] alleged to be the cause of any physical feature, characteristic, or condition of the victim. . . ." G. L. c. 233, § 21B, as inserted by St. 1977, c. 110. The statute controls, and the judge's decision to deny introduction of what amounted to "[e]vidence of specific instances of a victim's sexual conduct" was correct.

ii. *Evidence of the victim's history of sexual abuse and its effect on her.* The defendant claims that the judge committed error when he was denied permission to question the victim

about the two previous times she was raped and her psychiatric problems that stemmed from those incidents. In particular, the defendant wanted to introduce in evidence those portions of the clinic records that he claimed showed that the victim suffered from flashbacks, hated all men, was sexually provocative, and had falsely accused other men of inappropriate behavior. The defendant claims that *Commonwealth* v. *Baxter*, 36 Mass. App. Ct. 45 (1994), decided after the trial in this case, supports his position.

In *Baxter*, the defendant was accused of rape, and his defense was consent. The complainant had been raped the previous year by another man with the same first name as the defendant under circumstances remarkably similar to those of the alleged rape for which Baxter was on trial. The complainant had been hospitalized for psychiatric problems stemming from the prior rape. The records showed that she suffered from, among other problems, "flashbacks" to the assault, "auditory hallucinations," and a "negative view of men." *Id.* at 48. A psychiatrist was prepared to testify that "the complainant's 'history impacts on her ability to perceive, recollect, and recall the events in question' and that the 'flashbacks' were significant in respect to her 'ability to distinguish the events in question with the past event.'" *Id.* at 48-49. The judge excluded the evidence.

The court held that it was error to exclude the evidence because Baxter "was seeking to show that the complainant had been victimized, that she was suffering from psychiatric problems as a result of that assault, and that because of those problems *and* the many remarkable similarities of that trauma to the present incident, she was unable to distinguish between the two situations" (emphasis in original). *Id.* at 51. Because the evidence went to the "heart of the defense," Baxter should have been allowed to present the evidence. *Id.* at 52.

It is clear that the court in *Baxter* limited its decision to the particular facts present in that matter. In this case, the rape for which the defendant was being tried was not "remarkabl[y] similar" to the two rapes that had occurred

over seven years before. Further, as we have previously stated, the clinic records did not show that the victim suffered "flashbacks" or "auditory hallucinations." This case is distinguishable from *Baxter*, and there was no error.

2. *Limitation on cross-examination.* The defendant claims that the judge improperly limited his cross-examination of the victim regarding her credibility, her ability to perceive the event in question, her ability to distinguish the October 19 incident in question from the prior rapes, and her bias and motive to lie.

It is clear that many of the questions that the defendant proposed to ask the victim had no basis in the evidence. "The attempt to communicate impressions by innuendo through questions which are answered in the negative, . . . when the questioner has no evidence to support the innuendo, is an improper tactic which has often been condemned by the courts." *Commonwealth* v. *White*, 367 Mass. 280, 284 (1975), quoting from A.B.A. Standards Relating to The Prosecution Function § 5.7(d)(Approved Draft 1971). It is clear that the defendant was attempting to elicit inadmissible evidence affecting the victim's credibility in violation of G. L. c. 233, § 21B.

"[T]he scope and contours of cross-examination are within the judge's sound discretion, and . . . he or she may limit 'to what extent the accuracy, veracity, and credibility of a witness may be tested.'" *Commonwealth* v. *O'Connor*, 407 Mass. 663, 672 (1990), quoting from *Commonwealth* v. *Repoza*, 382 Mass. 119, 125 (1980). The judge's discretion "is not subject to reversal unless the defendant can show he was prejudiced by too narrow a restriction in his cross-examination rights." *Ibid.*

We have examined the cross-examination in its entirety. We hold that the defendant was not prejudiced by the judge's limitation on his cross-examination of the victim.

3. *The judge's instructions to the jury.* Having examined the judge's instructions, we conclude that the defendant's claim that the judge improperly instructed the jury is without merit.

Judgment affirmed.

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Workshop D

Truth in Sentencing: Where Do We Stand?

Truth in Sentencing: Where Do We Stand?

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The Boston Globe

JANUARY 13, 1994

Weld signs law toughening state sentencing guidelines

By Doris Sue Wong
GLOBE STAFF

Citing the confusion and anguish the present system has created for crime victims and their families, Gov. Weld yesterday signed into law legislation to simplify the state's complicated sentencing guidelines.

"Truth in sentencing is going to reduce violent crime because it will send the message to criminals they can no longer waltz through prison," said Weld, who was flanked at a State House bill-signing ceremony by dozens of lawmakers, law enforcement officials and victims' rights advocates.

The legislation will abolish the so-called Concord sentence and automatic time off for good behavior for inmates on July 1. The Concord sentence, named after the state prison in that town, allows prisoners to be released after serving as little as one-tenth of their sentence.

People who commit crimes after that date also will no longer be eligible for parole after serving two-thirds of the minimum amount of their sentence. Instead, they will have to serve their entire minimum sentence.

In addition, the governor is charged with appointing a sentencing commission, which within 12 to 18 months must devise new sentencing guidelines for all categories of crimes.

At the ceremony, relatives of nearly a dozen homicide victims stepped forward one by one to hail the new law.

Matt Shedd of Sudbury, who lost his daughter Hillary to a drunk driver, recounted that "time and time again" his family, like so many others, has been forced to remain vigilant and to "bare our hearts and souls" to strangers to ensure that the person criminally responsible would not be released early from prison.

"This legislation will allow victims to rededicate this time and energy to healing themselves," said Shedd.

Kay Dulong of Lynn, whose son was murdered, said the new law has come too late for her family and others, "but there are so many others that need help."

Truth in sentencing

Gov. Weld yesterday signed a truth-in-sentencing law. Here are its major provisions.

CHANGES COMING JULY 1

- **Concord sentence repealed:** Named for Concord State Prison, this sentence allows a criminal to become eligible for parole after serving one-tenth of his time.
- **State prison sentences toughened:** Law requires prisoners to serve the minimum end of the sentence imposed. For example, a person who receives an 8- to 10-year sentence would have to spend at least eight years behind bars. Currently, a person becomes eligible for parole after serving two-thirds of the minimum end.
- **Statutory good time repealed:** Halts system under which an inmate gets 12.5 days shaved off his sentence for each month of good behavior, resulting in sentence reductions of up to 40 percent. Inmates will still be able to cut 7.5 days off their sentence for every month spent in a prison rehabilitation program.

CHANGES IN THE FUTURE

- Governor to appoint a sentencing commission to develop a "target sentence" for each type of crime. The commission will issue its report in a year. Its recommendations must be approved by the Legislature and governor.
- Judges would be allowed to impose a term 20 percent higher or lower than a "target sentence" when there are mitigating or aggravating circumstances. They could deviate further from the target sentence if they put their reasons in writing.
- Once the sentence is imposed, an inmate would have to serve two-thirds of his time before becoming eligible for parole. Until the new sentence structure is in place, inmates receiving House of Correction sentences would still be eligible for release after serving half the sentence.

GLOBE STAFF GRAPHIC

Massachusetts Sentencing Commission

Materials Prepared for the:

Massachusetts Victim Rights Conference
State House, Boston
Tuesday, April 25, 1995

Massachusetts Sentencing Commission

The Massachusetts Sentencing Commission was established by the truth-in-sentencing law (Chapter 432 of the Acts of 1993), which became effective in April, 1994. The Massachusetts Sentencing Commission consists of fifteen members, including three judges, three prosecutors, and three defense counsel, along with representatives from the Victim Witness Assistance Board, the Office of the Commissioner of Probation, the Executive Office of Public Safety, the Department of Correction, the Sheriffs' Association, and the Parole Board. This membership group provides broader representation of the interests of the criminal justice community and victims than most other sentencing commissions in the nation. The Massachusetts Sentencing Commission members were appointed in the spring of 1994 and held their first organizational meeting in June, 1994. The Massachusetts Sentencing Commission hired an executive director and research director in December, 1994. The Honorable Robert A. Mulligan, Chief Justice of the Superior Court, serves as Chair. (A list of the Massachusetts Sentencing Commission members is attached.)

The mission of the Massachusetts Sentencing Commission is to promote truth in sentencing by formulating uniform sentencing policies and developing systematic sentencing guidelines for the Commonwealth. The Massachusetts Sentencing Commission has adopted a comprehensive approach in developing these sentencing policies and guidelines with respect to the range of offenses covered and the scope of sanctions included.

In order to set a direction for its work, the Massachusetts Sentencing Commission has reviewed the experiences with sentencing guidelines in other jurisdictions, sought guidance from national experts, and drafted a strategic plan, including a mission statement, a set of guiding principles, and a series of tasks to be accomplished. The strategic plan was designed to be a "dynamic" document, providing not only a blueprint for future work, but also, through periodic updates, documentation of progress on Massachusetts Sentencing Commission initiatives.

In its development of the sentencing policies and guidelines, the Massachusetts Sentencing Commission is committed to an open process which will elicit input from all interested parties. The Massachusetts Sentencing Commission also adopted a research-oriented approach to this enterprise, whereby empirical data on existing sentencing practices and time served will be generated to inform deliberations. However, this does not imply that the Massachusetts Sentencing Commission is attempting to replicate existing sentencing patterns. Rather, the Massachusetts Sentencing Commission has established a prescriptive approach, whereby values regarding sentencing are articulated and sentencing guidelines are formulated to reflect these values. For example, one such value is to focus on the appropriate incarceration of the violent offender.

The Massachusetts Sentencing Commission established a committee structure to address the mandates of the legislation and the tasks of the strategic plan. The main committees are:

Outreach and Education
Research
Legislation
Intermediate Sanctions.

The committee structure provides a framework for summarizing the work of the Massachusetts Sentencing Commission to date and for planning the work in the future.

Outreach and Education. In developing sentencing policies and guidelines, the Massachusetts Sentencing Commission is committed to a process that is as open as possible. Research indicates that there are 16 states that have established sentencing commissions which have been successful in implementing their sentencing guidelines. However, there are five states that established sentencing commissions that have not been successful in implementing sentencing guidelines. An important distinguishing feature between the successful and unsuccessful states was the degree of openness of the process of formulating the guidelines.

As a first step in eliciting input for the guidelines development process, the Massachusetts Sentencing Commission conducted a series of six focus groups with representatives of victims' organizations at various locations in the Commonwealth. Approximately 75 victims' organizations were invited to send representatives to these focus group meetings. The victims' insights on sentencing issues proved to be quite valuable for the deliberations of the Massachusetts Sentencing Commission . The notes of these focus groups have been compiled into a 50-page document, with a summary highlighting the major concerns and recommendations of the victim representatives. Massachusetts Sentencing Commission members have each received a copy of this document.

The Massachusetts Sentencing Commission is planning further focus group sessions in April and May, 1995, with various constituency groups within and beyond the criminal justice community. In addition, public hearings on the sentencing guidelines are planned for September and October, 1995, in order to elicit additional input as the process of developing guidelines progresses.

The principle of ensuring an open process by providing a forum for constituencies to be heard is viewed as critical to the success of the sentencing guidelines enterprise. The Massachusetts Victim Rights Conference, and particularly the panel on Truth in Sentencing, provides a unique opportunity for the Massachusetts Sentencing Commission to receive input on sentencing guidelines.

Research. The truth in sentencing legislation mandates that a comprehensive research effort be undertaken in conjunction with the development of the sentencing guidelines. This means that the Massachusetts Sentencing Commission's decisions and policies will be informed by empirical data within the framework of the prescriptive approach described above.

The research challenges are quite formidable. For example, the study of existing sentencing practices and time currently being served requires ground-breaking research utilizing and integrating diverse databases maintained by the Office of the Commissioner of Probation, the Department of Correction, Sheriffs' Departments, the Parole Board and the Criminal History Systems Board. This research enterprise is presently underway with excellent cooperation and support from all the relevant criminal justice agencies. The Massachusetts Sentencing Commission has also been working with the Department of Correction and outside consultants on the development of the prison population projections utilizing some sophisticated simulation modeling techniques. The aim is to be able to project the prison population under existing sentencing practices and to project the impact of proposed guidelines on the correctional population. In this way, the Massachusetts Sentencing Commission can take prison capacity into account in developing sentencing guidelines.

Legislation. The focus of the Legislation Committee has been on the development of the sentencing guidelines, which is at the heart of the mission of the Massachusetts Sentencing Commission. Some substantial progress has been made in this area. The Legislation Committee has articulated a set of values to guide the process of guideline development and formulated a conceptual model as a framework for the guidelines. This model, which has been endorsed by the full Massachusetts Sentencing Commission, utilizes a grid-type approach based on a matrix with offenses classified on the vertical axis according to seriousness and criminal history classified on the horizontal axis according to severity. Then, within each cell in the matrix, there will be a target sentence with a sentencing range of plus and minus 20% of the target sentence - e.g., if the target sentence is 10 years for a particular offense at a given category of criminal history, the sentencing range would be 8-12 years. Ordinarily, a judge would impose a sentence within the range, but where there are unusual aggravating or mitigating circumstances, the judge may depart from the range with the requirement that the judge set forth in writing the reasons for departure.

The Massachusetts Sentencing Commission has also completed a review of the crimes in M.G.L. Chapter 265, which includes most of the violent crimes, and has classified them according to seriousness. However, over 4,000 crimes have been identified that have to be classified. Further, the process of plugging in the target sentences on the grid has not as yet begun. It has been considered important to have the empirical data on existing sentencing practices and time served available as a frame of reference for setting target sentences. The Massachusetts Sentencing Commission is also working on the formulation of numerous policy statements to guide the application of the sentencing guidelines.

Intermediate Sanctions. The truth in sentencing statute directs the Massachusetts Sentencing Commission to conduct a study of intermediate sanctions and to submit a report to the Legislature with a plan for the development, implementation, administration, and funding of intermediate sanctions. In approaching this initiative the Massachusetts Sentencing Commission will ensure that intermediate sanctions are integrated into the sentencing options set forth in the sentencing guidelines. Further, the Massachusetts Sentencing Commission is committed to working with the legislature and other interested parties on the development of the provisions of H. 1726, the bill establishing a program of enhanced intensive probation, which is expected to be

an important component in the development of a comprehensive network of intermediate sanctions.

The Intermediate Sanctions Committee includes representatives of the Executive Office of Health and Human Services, the Executive Office of Public Safety, and the Administrative Office of the Trial Court, along with members of the Massachusetts Sentencing Commission. The Intermediate Sanctions Committee has begun work in this area by developing a mission statement and identifying a set of tasks to be accomplished. The Intermediate Sanctions Committee has designed a two-phased approach for compiling an inventory of existing intermediate sanction programs. As the first step, the Intermediate Sanctions Committee has prepared a survey questionnaire and distributed it to some 180 sites - e.g., probation offices, parole offices, Sheriffs' Departments, Department of Correction, and private vendors - where intermediate sanctions or community correctional programs may be in use. Responses have been received and are presently being compiled. Upon compilation of this information, the Intermediate Sanctions Committee will follow up with a more detailed data gathering effort with selected programs. This research effort will generate some systematic data on intermediate sanctions to serve as a basis for the Massachusetts Sentencing Commission's report to the legislature on intermediate sanctions. The Intermediate Sanctions Committee also plans site visits to intermediate sanction programs. For example, a meeting was held in Hampden County on March 22, 1995, in order to gain some first-hand insights on the day reporting program, the DUI program, and the pre-release program, administered by Sheriff Michael Ashe, and on the criminal justice collaborative program being administered as a joint enterprise of the District Court, the District Attorney's Office, the Probation Department, and the Sheriff's Department.

The Massachusetts Sentencing Commission appreciates the opportunity to discuss its initiatives and receive reactions and input that is afforded by the panel on truth in sentencing at the Victim Rights Conference on April 25, 1995.

Massachusetts Sentencing Commission Members

Judges	Honorable Robert A. Mulligan, Chair Chief Justice, Superior Court
	Honorable Margaret R. Hinkle Associate Justice, Superior Court
	Honorable Mark H. Summerville Associate Justice, Boston Municipal Court
Prosecutors	R. Jack Cinquegrana, Esq. Suffolk Country District Attorney's Office
	S. Jane Haggerty, Esq. Essex County District Attorney's Office
	Pamela L. Hunt, Esq. Assistant Attorney General
Defense Counsel	Thomas G. Murray, Esq. Private Attorney, Boston
	William W. Robinson, Esq. Committee for Public Counsel Services
	Michael J. Traft, Esq. Private Attorney, Boston
Sheriffs Association	Cathleen E. Campbell, Esq. Suffolk County Sheriffs Department
Probation	Donald Cochran Commissioner of Probation
Parole Board	Sheila A. Hubbard, Esq. Parole Board
Public Safety	John F. Flynn, Esq. Executive Office of Public Safety
Department of Correction	David Slade, Esq. Department of Correction
Victim Assistance Board	Maria F. Rodriguez, Esq. Director of Victim Services, Hampden County

District Court Liaison	Honorable Timothy Gailey Lynn District Court

Designees to Intermediate Sanctions Committee

EOHHS Designee	William O'Leary Commissioner, Department of Youth Services
AOTC Designee	Donald Moran Supervisor, Superior Court Probation Services
EOPS Designee	John F. Flynn, Esq. Executive Office of Public Safety

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SENTENCING COMMISSION

CHAPTER 432

H.B. No. 5682

AN ACT to promote the effective management of the criminal justice system through truth-in sentencing.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. (a) There is established, as an independent commission in the judicial branch of the commonwealth, a Massachusetts sentencing commission which shall consist of nine voting members and six non-voting members. The governor shall appoint the voting members of the commission, and shall designate one member as chairman. Three of the voting members shall be present district court, Boston municipal court or superior court department judges, selected from a list of seven judges recommended by the chief justice for administration and management, and at least one district court judge or Boston municipal court and one superior court judge shall be appointed. Two of the voting members shall be an assistant district attorney, selected from a list of seven assistant district attorneys recommended by the Massachusetts District Attorneys' Association. One of the voting members shall be an assistant attorney general, selected from a list of three assistant attorneys general recommended by the attorney general. Two of the voting members shall be members of the Massachusetts Association of Criminal Defense Attorneys, selected from a

list of five such members recommended by the Massachusetts Association of Criminal Defense Attorneys. One voting member shall be a public defender, selected from a list of three public defenders recommended by the committee for public counsel services. The non-voting members shall be the commissioner of corrections, or his designee; the commissioner of probation, or his designee; and the secretary of public safety, or his designee; the chairman of the Massachusetts Parole Board, or his designee; the President of the Massachusetts Sheriffs Association or his designee; a victim witness advocate selected by the victim witness board.

The chairman and the members of the commission shall be subject to removal from the commission by the governor only for neglect of duty or malfeasance in office or for a showing of other good cause.

(b) (1) The voting members of the Commission shall be appointed for six-year terms; provided, however; that the initial terms of the first members of the commission shall be staggered so that four members, including the chairman, serve terms of six years; three members serve terms of four years; and two members serve terms of two years. Terms of those members appointed by their public office or position shall and when the member leaves that public office or position, and a successor shall be appointed in the prescribed manner.

(2) No voting member may serve more than two full terms. A voting member appointed to fill a vacancy which occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) Members of the commission shall serve without compensation, but each member shall be reimbursed by the commonwealth for all reasonable expenses incurred in the performance of official duties.

(4) Judges may serve on the commission and not be required to resign their appointment as judge.

(c) The commission shall have the power to perform such functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate to the accomplishment of the duties of the commission as set forth below. In particular, the commission shall:

(1) appoint and fix the salary and duties of a director and other personnel, who shall serve at the discretion of the commission;

(2) submit appropriations requests to the secretary of administration and finance;

(3) utilize, with their consent, the services, equipment, personnel, information, and facilities of Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(4) enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(5) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services;

(6) request such information, data, and reports from any Massachusetts agency or judicial officer as the commission may from time to time require and as may be produced consistent with other law;

(7) serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices and assist courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(8) make recommendations to the legislature concerning modification or enactment of laws relating to crimes, sentencing, and correctional matters, as well as recommendations concerning programatic, [1] budgetary and capital matters that the commission finds to be necessary and advisable to carry out the purposes of this act;

[1] So in original.

(9) hold hearings and call witnesses to assist the Commission in the exercise of its powers or duties.

(d) The commission shall act by affirmative vote of at least five of its voting members.

(e) Upon the request of the commission, each agency and department of the commonwealth is hereby authorized and directed to make its services, equipment, personnel, facilities and information available to the greatest practicable extent to the commission in the execution of its functions. The commission shall, to the extent practicable, utilize existing resources of the administrative office of the Massachusetts courts for the purpose of avoiding unnecessary duplication.

(f) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(g) The director shall supervise the activities of persons employed by the commission and perform other duties assigned to the director by the commission. The director shall, subject to the approval of the commission, appoint such officers and employees as are necessary in the execution of the functions of the commission.

SECTION 2. The purposes of the Massachusetts sentencing commission shall be to recommend sentencing policies and practices for the commonwealth which:

(1) punish the offender justly;

(2) secure the public safety of the commonwealth by providing a swift and sure response to the commission of crime;

(3) meet the purposes of sentencing which are:

(A) to reflect the seriousness of the offense;

(B) to promote respect for the law;

(C) to provide just punishment for the offense;

(D) to afford adequate deterrence to criminal conduct;

(E) to protect the public from further crimes of the defendant; and

(F) to provide the defendant with educational or vocational training;

(4) provide certainty and fairness in sentencing, avoiding unwarranted sentencing disparities among defendants with similar criminal records who have been found guilty of similar criminal conduct, while maintaining judicial discretion and sufficient flexibility to permit individualized sentences warranted by mitigating or aggravating factors;

(5) promote truth in sentencing, in order that all parties involved in the criminal justice process, including the prosecution, the defendant, the court, the victim and the public, are aware of the nature and length of the sentence and basis of it;

(6) ration correctional capacity and other criminal justice resources to sentences imposed, making said rationing explicit, rational and coherent, in order to:

(a) afford sufficient correctional capacity to incarcerate violent offenders consistent with paragraph one;

(b) evaluate, on a yearly basis, the performance of said rationing, making appropriate remedial recommendations consistent with subparagraph (8) of paragraph (c) of section one;

(c) prevent the prison population in the commonwealth from exceeding the capacity of the prisons, and to prevent premature release for any other reason, and to serve the ends of truth in sentencing by taking into account, in establishing sentencing policies and practices for the commonwealth, the nature and capacity of correctional facilities and community sanctions available in the commonwealth consistent with protecting public safety;

(7) encourage the development and implementation of intermediate sanctions in appropriate cases as a sentencing option, consistent with protecting public safety;

(8) enhance the value of criminal sanctions and ensure that the criminal penalties imposed are the most appropriate ones by encouraging the development of a wider array of criminal sanctions;

(9) make offenders accountable to the community for their criminal behavior, through community service, restitution, and a range of intermediate sanctions;

(10) evaluate the impact, if any, of the repeal of section one hundred and twenty-nine of chapter one hundred and twenty-seven of the General Laws on correctional facility capacity for the purpose of sentencing;

(11) nothing contained in this section shall be construed as creating any right of action.

SECTION 3. (a) (1) The commission, by affirmative vote of at least six members of the commission, and consistent with all pertinent provisions of this act and the General Laws, except as hereinafter provided, shall recommend sentencing guidelines.

(2) The sentencing guidelines shall be used by the district and superior courts of the commonwealth, and the Boston municipal court, in imposing a sentence in every criminal case. Said sentence shall not be suspended in whole or in part. The sentencing judge shall impose a sentence within a range prescribed by the sentencing guidelines for every offense, unless the sentencing judge sets forth in writing reasons for departing from that range, on a sentencing statement as set forth in paragraph (h) of section three herein, based on a finding that there exists one or more aggravating or mitigating circumstances that should result in a sentence different from the one otherwise prescribed by the guidelines. The commission shall establish non-exclusive aggravating and mitigating circumstances to guide the sentencing judge, as set forth in paragraph (d) of section three. In the absence of an applicable sentencing guideline the court shall impose an appropriate sentence, having due regard for the purposes set forth in section two.

(3) The sentencing guidelines shall be based on reasonable offense characteristics, taking into account the nature and seriousness of each offense, and reasonable offender characteristics taking into account the offender's character, background, amenability to correction, and criminal history and the availability of the commonwealth's criminal justice and public safety resources.

For every criminal offense under the laws of the commonwealth, the guidelines shall establish:

(A) The circumstances, if any, under which the imposition of intermediate sanctions may be proper, and the circumstances under which imprisonment may be proper.

(B) Appropriate intermediate sanctions for offenders for whom straight imprisonment may not be necessary or appropriate. In establishing such intermediate sanctions, the commission shall make specific reference to noninstitutional sanctions, including but not limited, to standard probation, intensive supervision probation, community service, home confinement, day reporting, residential programming, restitution and means-based fines.

(C) A target sentence for offenders for whom an intermediate sanction may not be appropriate based on a combination of reasonable offense and offender characteristics for each offense, and the adequacy of the commonwealth's criminal justice and public safety resources. The guidelines shall provide that, for each target sentence, the sentencing judge may impose a maximum sentence within a range to be established by the commission for each offense, and a minimum sentence of two-thirds of the maximum sentence; provided, however, that for target sentences of two years or greater the range may not be greater than twenty percent greater or less than the target sentence; and provided, further, that for target sentences of less than two years, the sentencing judge may impose an intermediate sanction. Within that range, the sentencing court may impose any sentence without stating its reasons therefor.

The commission shall act consistent with the need for flexibility, expeditious administration, case-flow management and resources of the trial court departments in sentencing guidelines.

(D) The circumstances, which shall not be considered exclusive, under which a sentencing judge may depart upward or downward from the range otherwise prescribed by the guidelines.

(b) The commission shall adopt, in conjunction with the sentencing guidelines, general policy statements, which shall be used in interpreting the guidelines.

(c) In its development of the sentencing guidelines, the commission shall conduct an empirical study in order to ascertain, to the extent practical, a survey of those individuals appearing before the commonwealth's criminal courts, and those committed to probation, prison and jail. It should also include the average sentences imposed for all offenses prior to

the promulgation by the commission of the sentencing guidelines, and the length of prison terms actually served in such cases. The commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the purposes of sentencing described in section two; provided, however, that the commission shall assure that the target sentences established for each offense shall not be higher than the averages determined herein, solely because of the repeal of "good time" as set forth in section eight A of this act. The commission shall utilize this data and develop any other data it deems necessary, in order to assess the impact of the sentencing guidelines and carry out the purposes set forth in said section two.

(d) In establishing non-exclusive aggravating and mitigating circumstances pursuant to subparagraph (2) of paragraph (a) of section three, the commission shall determine whether the following kinds of factors, among others, are relevant, and shall take such factors into account only to the extent that it deems to be relevant:

(1) factors which describe the nature and circumstances of the offense conduct;

(2) factors which describe the offender's mental state at the time of the offense;

(3) factors which describe the relationship, if any, between the offender and victim;

(4) factors which describe the nature and degree of the harm caused by the offense;

(5) the community view of the gravity of the offense;

(6) the public concern generated by the offense;

(7) the deterrent effect a particular sentence may have on the commission of the offense by others;

(8) the current incidence of the offense in the community and in the commonwealth as a whole;

(9) the role in the offense of each offender in cases involving multiple offenders;

(10) the age of the offender;

(11) the mental and emotional condition of the offender, to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

(12) the offender's physical condition, including drug dependence;

(13) the offender's family ties and responsibilities;

(14) the offender's community ties;

(15) the offender's degree of dependence upon criminal activity for a livelihood;

(16) the offender's character and personal history; and

(17) the offender's amenability to correction, treatment, or supervision.

(e) The maximum sentence within the range established by the sentencing guidelines for each offense shall not exceed the maximum penalty for the offense as set forth in the General Laws. The minimum sentence within said range shall not be below any mandatory minimum term prescribed by statute. However, except for the crimes set forth in section one of chapter two hundred and sixty-five of the General Laws, the sentencing judge may depart from said range, and impose a sentence below any mandatory minimum term prescribed by statute, if the judge sets forth in writing reasons for departing from that range, on a sentencing statement as set forth in paragraph (h) of section three, based on a finding that there exists one or more mitigating circumstances that should result in a sentence different from the one otherwise prescribed by the guidelines and below any applicable mandatory minimum term.

The commission shall assure that the guidelines are entirely neutral as to the race, sex, national origin, creed, religion and socio-economic status of offenders.

(f) The commission periodically shall assess the impact of the sentencing guidelines in order to determine the type and amount of correctional resources needed. In particular, the commission shall examine the impact of said guidelines on intermediate sanctions and correctional institutions and may consult with all appropriate authorities for this purpose. Beginning in the year after the sentencing guidelines become law, but no later than May first, the following persons shall submit comments and recommendations to the commission

regarding the implementation and impact of the sentencing guidelines: The governor's chief legal counsel, the commissioner of probation; the chairman of the parole board; every district attorney; the chief counsel of the committee for public counsel services; the commissioner of corrections; the chief justices of the superior court, district court, and Boston municipal court; the attorney general; and the Massachusetts Association of Criminal Defense Attorneys.

(g) Beginning in the calendar year following the effective date of the sentencing guidelines, the commission, at or after the beginning of a regular session of the legislature, but not later than the first day of October, may promulgate and submit to the legislature amendments to the sentencing guidelines. Such amendments shall be accompanied by a report stating the reasons therefor. The amendments to the guidelines shall only take effect if enacted into law.

(h) The commission shall promulgate the form of a sentencing statement, conforming to the sentencing guidelines, which shall be used by the sentencing judge in the application of the guidelines when imposing a sentence. The sentencing statement shall be simple and easy to complete. The sentencing judge shall complete the statement for every sentence imposed. One copy of the sentencing statement shall be included in the case file, and one copy shall be forwarded by the court to the commissioner, which shall be used by the commission to submit to the legislature, at least annually, an analysis of sentencing patterns under the guidelines.

(i) Any inmate sentenced to a state or county correctional facility prior to the effective date of the sentencing guidelines shall be subject to the law, regulation and rules governing the issuance of parole and the supervision of parole at the time the offense was committed.

(j) Those persons sentenced to a term of imprisonment as prescribed by the sentencing guidelines established by the Sentencing Commission may be eligible for parole after serving the minimum sentence imposed, less credit for deductions for good conduct earned under section one hundred and twenty-nine D of chapter one hundred and twenty-seven of the General Laws.

(k) The provisions of the General Laws relating to publication and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

For the purposes of this act, the words intermediate sanction shall mean any of a number of sanctions which are served or satisfied by the offender within the community in which the offender committed the offense or in the community in which the offender resides and may include, but shall not be limited to, standard probation, intensive supervision probation, community service, home confinement, day reporting, residential programming, restitution and means-based fines; provided, however, that in no event shall a state employee be replaced by an offender serving an intermediate sanction.

SECTION 4. (a) A defendant may file a notice of appeal for review of an otherwise final sentence if:

(1) the sentence was imposed in violation of law; or

(2) the sentence was imposed as a result of an incorrect application of the sentencing guidelines; or

(3) the departure upward from the applicable guideline range was an abuse of discretion; or

(4) the sentence was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.

(b) The commonwealth, with the personal approval of the attorney general or a district attorney, may appeal an otherwise final sentence if:

(1) the sentence was imposed in violation of law;

(2) the sentence was imposed as a result of an incorrect application of the sentencing guidelines;

(3) the departure downward from the applicable guideline range was an abuse of discretion; or

(4) the sentence was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.

(c) In the case of a plea agreement entered into pursuant to Rule twelve of the Massachusetts rules of criminal procedure.

(1) a defendant may not appeal a sentence unless the sentence imposed is greater than the sentence prescribed by the sentencing guidelines; and

(2) the commonwealth may not appeal a sentence unless the sentence imposed is less than the sentence prescribed by the sentencing guidelines.

(3) a sentence imposed by the court in accordance with the recommendation of either the defendant or the commonwealth may not be appealed by the party which made the recommendation; and a sentence imposed in accordance with a jointly-agreed recommendation may not be appealed by either the defendant or the commonwealth.

(d) Appeals from sentences imposed under the sentencing guidelines shall be conducted in accordance with the Massachusetts rules of appellate procedure.

(e) If imprisonment is imposed, the entry of an appeal under the provisions of this section shall not stay the execution of the sentence unless the judge imposing it, upon a showing of a reasonable likelihood of success, finds that execution of the sentence should be stayed pending final determination of the appeal.

SECTION 5. The Massachusetts sentencing commission shall submit the initial sentencing guidelines promulgated under this act to the general court within twelve months after the effective date of this act unless the date for submission is extended by law. The guidelines shall take effect only if enacted into law.

SECTION 6. The Massachusetts sentencing commission, the chief justice for administration and management of the trial court, the secretary of health and human services, and the secretary of public safety are hereby authorized and directed to make an investigation and study for submission to the house and senate committees on ways and means, not later then twelve months after the effective date of this act, relative to developing a full range of sentencing options, including but not limited to probation, home confinement, intensive supervision, community service, restitution, day reporting, day fines, other intermediate sanctions, incarceration in the house of correction, and prison. The purpose of such sanctions shall be to enhance public safety and to ensure that persons so committed are:

(*a*) held accountable, in degree or kind, for offense committed,

(*b*) supervised in order to enhance public safety and to ensure that the conditions of sentence or parole are fully complied with and

(*c*) provided opportunities for appropriate treatment and rehabilitation.

Such study shall include:

(*a*) the definition of terms and conditions of each sentencing option;

(*b*) an inventory of existing sentencing options;

(*c*) a plan for the development, implementation, administration, and funding of existing expanded and new sentencing options;

(*d*) a plan to research and evaluate sentencing options;

(*e*) a plan to incorporate rehabilitation services, including but not limited to, drug and alcohol treatment, violence prevention, sex offender programming, job readiness, education and literacy and other human services programs, and a plan for delivery of such services.

SECTION 7. Section 168 of chapter 6 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "general", in line 4, the following words:— the chairperson of the Massachusetts sentencing commission.

SECTION 8. Said chapter 6 is hereby further amended by inserting after section 168 the following section:—

Section 168A. The commissioner of probation, the commissioner of corrections, the chairman of the parole board and the county commissioners of counties other than Suffolk county shall transmit to the criminal history systems board in such form and at such times as the board shall require, detailed and complete records relative to all probation and parole cases, and permits to be at liberty granted or issued by them, respectively, the revoking of the same and the length of time served on each sentence of imprisonment by each prisoner so

released specifying the institution where each such sentence was served; and under the direction of the board a record shall be kept of all such cases as the board may require. Police officials shall cooperate with the board in obtaining and reporting information concerning persons under the care and custody of the probation department and parole board. The commissioner of probation, commissioner of corrections, chairman of the parole board and commissioner of youth services shall at all times give to the board such information as may be obtained from the records concerning persons under sentence or who have been released.

The information obtained and recorded shall not be regarded as public records and shall not be open for public inspection but shall be accessible to the justices, the departments of probation, corrections, and youth services, the parole board, the Massachusetts sentencing commission, and to such local and state governments as the board may determine. Upon payment of a fee of three dollars for each search, such records shall be accessible to such departments of the federal government and to such educational and charitable corporations and institutions as the board may determine.

SECTION 9. Chapter 6A of the General Laws is hereby amended by inserting after section 18½ the following section:—

Section 18¾. It shall be the function of the secretary of public safety:

(1) to develop and implement, in conjunction with the criminal history systems board, an improved system for recording, updating and communicating among criminal justice agencies of the executive office, and the trial court, the attorney general, the Massachusetts sentencing commission, the county sheriffs, and district attorneys, all criminal offender record information and information relevant to sentencing, probation, community corrections, correctional institutions, rehabilitation, and parole decisions in a manner consistent with law and with the rights of all persons who are subjects of such information;

(2) to develop and implement a criminal justice management information system including the organized collection, storage, retrieval, analysis, and dissemination of information among criminal justice agencies of the executive office of public safety, and the trial court, the attorney general, the Massachusetts sentencing commission, the county sheriffs, and the district attorneys of the seven districts;

(3) to develop and implement a criminal justice research and evaluation program including the organized collection, storage, retrieval and analysis of information in order to monitor and provide oversight of criminal justice agencies of the executive office, and trial court, the attorney general, the Massachusetts sentencing commission, the county sheriffs, the district attorneys, and the public;

(4) to develop standards for and coordinate training of state and county institutional and other personnel employed by an agency within the executive office of public safety.

(5) to develop and evaluate programs for the economical provision of sufficient state and county correctional resources to maintain public safety, and prevent overcrowding, and to operate criminal justice agencies and facilities safely and efficiently at or below nationally accepted rates of capacity;

(6) to develop improved systems of classification of persons committed to the custody of probation, corrections, county corrections or parole for the purposes of determining supervision treatment and custody needs of such persons, of integrating and coordinating the functions of these agencies, and of balancing the resources and demands of these agencies; and

(7) to develop and evaluate programs designed to reduce the rate of recidivism among persons committed to the custody of state and county correctional institutions, and parole, to better integrate and coordinate the functions of these agencies, and to balance the resources and demands of these agencies.

SECTION 10. Section one hundred and twenty-nine of chapter one hundred and twenty-seven of the General Laws is hereby repealed.

SECTION 11. Said chapter 127 is hereby further amended by striking out section 133, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:—

Section 133. Parole permits may be granted by the parole board to prisoners subject to its jurisdiction at such time as the board in each case may determine; provided, however, that no prisoner sentenced to the state prison shall be eligible for such permit until such prisoner shall have served the minimum term of sentence, pursuant to section twenty-four of chapter two hundred and seventy-nine, as such minimum term of sentence may be reduced by deductions allowed under section one hundred and twenty-nine D. Where an inmate is serving two or more consecutive or concurrent state prison sentences, a single parole eligibility shall be established for all such sentences. Prisoners who are granted parole permits shall remain subject to the jurisdiction of the board until the expiration of the maximum term of sentence or, if a prisoner has two or more sentences to be served otherwise than concurrently, until the aggregate maximum term of such sentence, unless earlier terminated by the board under the provisions of section one hundred thirty A. Sentences of imprisonment in the state prison shall not be suspended in whole or in part.

SECTION 12. Section 133B of said chapter 127, as so appearing, is hereby amended by inserting after the word "seventy-nine", lines 2 and 3, the following words:— except for those persons sentenced to a term of imprisonment as prescribed by the sentencing guidelines established by the sentencing commission,.

SECTION 13. Subparagraph 1 of paragraph D of section 99 of chapter 272 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following clause:—

e. for investigative or law enforcement officers to violate the provisions of this section for the purposes of ensuring the safety of any law enforcement officer or agent thereof who is acting in an undercover capacity, or as a witness for the commonwealth; provided, however, that any such interception which is not otherwise permitted by this section shall be deemed unlawful for purposes of paragraph P.

SECTION 14. Section seventeen of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 15. Section eighteen of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 16. Said chapter 279 is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:—

Section 24. If a convict is sentenced to the state prison, except for life or as an habitual criminal, the court shall not fix the term of imprisonment, but shall fix a maximum and a minimum term for which he may be imprisoned. The maximum term shall not be longer than the longest term fixed by law for the punishment of the crime of which he has be [2] convicted, and the minimum term shall be a term set by the court, except that, where an alternative sentence to a house of correction is permitted for the offense, a minimum state prison term may not be less than one year.

SECTION 17. Section twenty-eight of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 18. Section thirty-one of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 19. Section thirty-two of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 20. Section thirty-three of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 21. Sections ten, eleven, fourteen, fifteen, seventeen, eighteen, nineteen, and twenty shall take effect on July first, nineteen hundred and ninety-four. Notwithstanding any other provision of this act, the law in effect at the time an offense is committed shall govern sentencing for said offense.

Approved January 12, 1994.

[2] So in enrolled bill; probably should read "has been".

JUSTICE BY THE GRID

If you want to get tough on crime, you have to impose some order on the sentencing process. North Carolina is trying.

Six days into the new year, a thin winter sun glazes the granite façade of North Carolina's Wake County Courthouse in downtown Raleigh. Upstairs in courtroom 3A, Eugene Morgan is coming to terms with a summer crime spree.

Morgan, a stocky 23-year-old, stands charged with breaking into eight churches and one house, stealing checks and cashing them. Set end to end, the counts against him could translate into a 240-year sentence. Under a plea arrangement, however, Morgan has admitted his guilt and the prosecutor is asking Judge Henry V. Barnette to impose a sentence of 20 years in prison.

But even as the judge pushes back his reading glasses, closes Morgan's folder and hands down the sentence, Morgan does not wear the shaken countenance—or flash the hostile glare—of a man condemned to 20 years behind bars.

That's because the sentence is a fiction. Morgan, his lawyer, the prosecutor and the judge all know that he is likely to be paroled in a matter of months. On average, North Carolina prisoners serve 18 percent of their sentences, and nonviolent offenders like Morgan serve much less. Ten years ago, offenders in the state did nearly half their time. Today, you can go to prison for a serious offense in the spring and still make it home for Christmas.

The same deterioration in time served has taken place all around the country. While judges send felons through one end of the revolving-door prison system, parole boards rotate them out the other end. Nationally, state prison inmates are serving roughly one-third of their sentences, but as sentences grow longer, time served is actually shrinking. In Texas, when courts increased penalties from an average of 6½ years to nearly 10, time served dropped from nearly 2½ years to a little more than 18 months. The actual sentence handed down by the judge is as meaningless for murderers and rapists as it is for the common housebreaker like Eugene Morgan.

Carl Henrie illustration

Of all the stories that have fueled the current national preoccupation with crime, none are more frightening than the ones about violent thugs walking the streets after a token imprisonment. In Virginia, where first-degree murderers, sentenced to 40 years, are averaging 11 years behind bars, George Allen rode a "no parole" campaign theme last fall to become the state's first Republican governor in more than a decade. In California, the call to end parole has been fueled by anger over the murder of 12-year-old Polly Klaas, allegedly slain by a paroled kidnapper who had served half of his 16-year sentence. North Carolina has been in the same condition of sentencing outrage. One of the men who murdered Michael Jordan's father in the state last year had been paroled weeks earlier, having served two years and two months of a six-year sentence for an ax assault.

In the past few months, ending parole and imposing life sentences on repeat offenders have become rallying cries just about everywhere. But it is not as simple as that. Most state prison systems don't have room to keep inmates any longer than they do; that is why they are being released—not out of misplaced leniency. In North Carolina, the penal institutions have room for 21,500 inmates; there are 30,000 admissions to prison *every year*.

A state can always build more cells, but the cost of that can be prohibitive. North Carolina has already spent $550 million since 1985 to build 16,600 new prison beds, and the legislature has had to more than double the prison portion of the corrections budget, from $195 million in 1985 to $472 million in 1993, to pay for operating those new beds. But even with new prison space coming on line, there still aren't enough beds to maintain the number of offenders rotating through the criminal justice system today—to say nothing of the future. Merely ending parole would be a recipe for chaos.

But North Carolina has taken a step toward a genuine solution. Last year, the legislature passed a new sentencing law. Some of its provisions are in line with the get-tough rhetoric of the moment: Starting next January, all offenders will serve their entire sentences; parole will be abolished. But the essence of the reform is not the parole provision. It is a simple chart of letters

BY PENELOPE LEMOV

and numbers that everybody in the criminal justice system refers to by a two-word name: the grid.

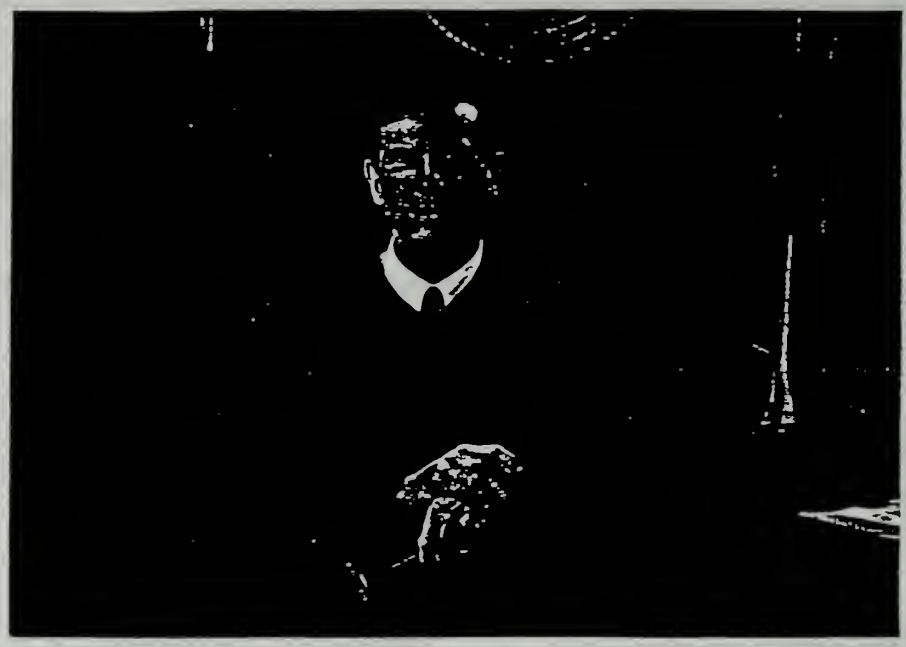
A year from now, criminals like Eugene Morgan will know all about the grid. The crimes they commit will all be assessed a level based not only on the harm they cause victims or society but also on the number of beds in the system and the capacity for other forms of punishment. "There is a relationship between punishment and cost," says Judge Thomas W. Ross, who chairs the state's Sentencing and Policy Advisory Commission. "We are balancing sentencing policy with resources."

A special legislative session met last month to discuss changes in some penalties, but the philosophy behind the grid remains the same.

The grid is available on a single sheet of paper to anybody who wants to see it. The left-hand side of the page is a rank order of crimes, levels A (first-degree murder) and B (second degree murder, rape) through H (breaking and entering, larceny) and I (forgery, drug sales). The numbers at the top of the page correspond to the number of black marks on a felon's record. When the time comes to impose sentence, a judge will run one finger down the left hand column to the level of crime and then move that finger across the grid to match it with the offender's record. Where the finger lands, the judge will find a square that contains a range of minimum and maximum sentences.

The judge will be able to use the lighter or heavier end of the range, depending on mitigating or aggravating circumstances. A judge might tilt toward the lighter sentence, for instance, if an offender has a job and is supporting his family. He might lean toward the heavier end if the offender is rootless and shows no remorse. The punishment has to fall within the square. The offender will then serve at least the minimum end of the sentence found inside the square. And if his behavior in prison is poor, he will serve the maximum.

He will not be paroled. All the sentences on the grid are designed to match the expected capacity of the system for the next five years. If the projections change, the legislature can adjust the numbers in the boxes. But if it does that, the idea is to redraw the whole grid at once—no more doubling the sentence for a particular crime when the system doesn't have a place to put the people who are committing it.



The father of North Carolina's sentencing grid: Superior Court Judge Thomas W. Ross.

Not all crimes fall into squares that demand prison sentences. First and second-time offenders who commit H and I level crimes, such as breaking and entering, will be given suspended sentences so long as they successfully complete an alternative sanction. This could be a period of intensive probation, complete with electronically monitored house arrest or a stint in boot camp. The sentence could also call for restitution to victims and participation in a drug treatment program.

Forty percent of the offenders who come before North Carolina judges fall into the first two squares of H and I level crimes. They are first- or second-time offenders who commit nonviolent crimes. Under the present system, nearly 20 percent of those low-level offenders are sent to prison. That will end next year, and as it does it will free up prison space to keep violent offenders in prison longer.

North Carolina is not the first state to try a version of structured sentencing. There are "grids" in Minnesota, Oregon and Washington, and to a lesser extent in Pennsylvania, Louisiana and, most recently, Arkansas. But North Carolina is among the most ambitious in targeting punishment to resources. And its grid, unlike most of the others, is not a set of guidelines: It is a set of dictates that have to be followed.

"We borrowed from other states, but tailored the ideas to North Carolina," says state Representative Anne Barnes. "Every state is different and knows what its people will accept."

The North Carolina grid is not only a way of responding to the popular concern about revolving-door justice. It is a way to deal with the oppressive costs of politically charged mandatory sentences. Correction costs nationally have been growing at a rate of between 10 and 15 percent a year—they now account for 5 percent of total state spending—and the mandatory sentencing laws of the past decade are one of the main reasons.

Almost all states now have mandatory sentencing for a range of crimes from violent acts committed with a gun to drug offenses, drunk driving and property theft. In addition, 25 states have habitual-offender laws that require fixed prison terms for repeat offenders, in some cases regardless of the seriousness of the crime. In Louisiana, for instance, an offender convicted of three unrelated felonies must be sentenced to life without parole. In Alabama, there is a two-year

Mark Wagoner photograph

minimum sentence for drug sales, with five years added if the sale occurs within three miles of a school or housing project. In an urban area such as Birmingham, just about everything is within three miles of a school.

These laws have been enacted emotionally but haphazardly, with little regard to prison resources. So as the prisons fill up with newly convicted mandatory-sentence offenders, other prisoners have to be set free to make room for them. In many cases, those marked for early release have actually committed more violent crimes, but ones that did not happen to involve drug sales or repeat violations and thus did not trigger any mandatory penalty.

The effect of this shoddy lawmaking has been dramatic. In New Hampshire, mandatory drug sentences have helped the prison population grow by 239 percent in a decade, with prison costs rising three times as fast as the rest of state spending. In Delaware, a newly imposed minimum sentence of three years for possession of 5 to 15 grams of cocaine or heroin resulted in imprisonment of 424 offenders the first year, at a cost of $26.6 million. Nearly 80 percent of the offenders had never been in prison before; most were nonviolent. A subsequent study showed that alternative sentencing for these people would have cost one-tenth as much and achieved results that were no worse.

Officials in many states would like to undo the effects of clumsy mandatory sentencing, but getting rid of these laws is as politically difficult to do as passing them was easy. As North Carolina Attorney General Michael F. Easley points out, all the public really wants to hear about fixing the criminal justice system is that wardens will lock up thugs and throw away the key. "Anything else," Easley says, "and you have a sales job on your hands."

The North Carolina grid is an effort to restore some common sense and order to the process. The corrections system is approached as a whole. All sentences are placed at what seems to be the appropriate level: more prison time for violent crimes, less harsh punishment for nonviolent offenses, no disproportionately swollen penalties for minor drug-related violations. Under the new law, the only mandatory sentences will be for first-degree murder and major drug trafficking.

State legislators who want to call the new system mandatory sentencing will be able to do so, since there will be no parole. But it will be a system adjusted to the circumstances of the crime and the resources available, not to the public emotions of the moment. "The amount of time depends on the offender's crime history," Judge Ross argues, "and that's different than straight mandatory sentencing. This is a more rationally developed system. It's linked to harm done."

The bottom line is that violent offenders will be locked away for longer periods of time than they are now—even if the sentences themselves are shorter. "They get sentenced to six years, they serve six," Easley sums up. "Before, they got 50 and served five."

The new system also provides an ultimate choice to voters: What do they want to pay for corrections? With a clear link between sentences and corrections costs, the public can decide whether it wants to spend more money to keep certain kinds of criminals in jail longer—and how much more it would be willing to spend. Easley, who believes the new sentences are too lenient, says this is a way for the public to "intelligently weigh options of whether to build new prisons." If it wishes to spend and build, the grid can be rewritten to accommodate longer sentences all across the board.

In fact, the sentencing commission originally recommended stiffer sentences than the ones ultimately chosen. But the longer sentences would have required another round of prison construction, on top of the $550 million already spent since 1985. The legislature opted to try the less expensive alternative. "The legislature had to make a tough decision and face up to reality," says Robin Lubitz, the executive director of the Sentencing Commission. "You can't get a Cadillac for the price of a Yugo."

North Carolina law also discourages haphazard legislative tinkering: Any legislator who proposes lengthening a particular sentence must accompany that proposal with a fiscal note detailing

SCENES FROM THE GRID

Below is a sample of some of the "presumptive range" sentences that will be imposed under North Carolina's new grid system. All sentences are in months.

Active prison sentence | Alternative sentence | Judicial discretion to choose either

	First-time Offender	Mid-level Repeat Offender	Habitual Criminal
1st Degree Murder	Death penalty or life imprisonment mandatory		
1st Degree Rape 2nd Degree Murder	108-135	173-216	216-270
1st Degree Kidnapping 2nd Degree Rape	50-63	92-115	116-145
1st Degree Burglary 1st Degree Arson	44-55	81-101	101-126
Selling Drugs Near a School Voluntary Manslaughter	20-25	37-46	47-59
Involuntary Manslaughter Embezzlement by public officials	13-16	20-25	31-39
2nd Degree Burglary 2nd Degree Arson	10-13	16-20	23-29
Breaking and Entering Larceny, Embezzlement	5-6	9-11	16-20
Perjury Forgery	4-5	6-8	8-10

Based on the grid developed by the North Carolina Sentencing Commission

how much the change would cost. "The idea of being able to stand up and be tough on crime without worrying about how to pay for it has got to stop," Judge Ross insists.

The truth-in-sentencing law will not work, however, unless it also manages to put some teeth into the alternative programs at the lower end of the grid. Low-level offenders will have to be diverted from prison in order to assure that there is room for violent criminals.

As things stand now, judges can sentence offenders to intermediate sanctions or community punishments, but they must pair these with a prison sentence, usually of equal length. In North Carolina, as in most states, the offender can opt for the prison sentence instead of the alternative sanction. In recent years, a significant number of those offered alternative sanctions have chosen prison instead. A criminal doesn't have to have the I.Q. of a Hannibal Lechter to figure out that a two-year sentence, with release in a few months, is better than two full years of strict supervision.

It also costs him less. On probation, offenders pay a $20-a-month supervision fee and, if the judge orders it, have to attend drug treatment programs and pay restitution to victims. Upon early release from prison, few, if any, of these requirements apply. "People I've supervised say they save money by going to prison," says Theodis Beck, of the state's adult probation and parole division. When a two-year sentence means a two-year sentence, however, that calculation is likely to change.

An expanded alternative sanction program will actually be a money-saver for the state as a whole, but it won't exactly come free. The state plans to put about $20 million a year into beefing up its intensive probation system, plus $13 million for grants to counties to develop such community-based alternatives as drug treatment facilities, day reporting centers that offer education and job training, and day-fine programs that penalize offenders through a series of fines geared to their incomes. These facilities do not, for the most part, exist in adequate numbers in North Carolina now.

'Punishment will be meted out locally, not by the state,' says the head of the corrections department.

Franklin Freeman, the director of the state's Department of Corrections, says it will be up to each county to decide what kinds of facilities to operate, based on what the county believes will be the most effective punishment for its citizens. Pointing to one county where 40 percent of the admissions to jail are public drunks, Freeman suggests the answer there might be a drug-alcohol treatment center. "This is a return to colonial times and our early life as a nation," says Freeman. "We won't have stocks and public humiliation, but punishment will be meted out locally, not by the state."

Although the North Carolina grid is not in effect yet, it already has its critics. Judge Herbert Small, who served on the Sentencing Commission, believes that judges have been robbed of their discretion. "The grid is too rigid," he says. By way of example, he notes that TV evangelist Jim Bakker, convicted of massive fraud in federal court, would never see the inside of a cell under the grid system. That is because Bakker had no prior conviction record. "He'd be treated the same as a 17-year-old working at McDonald's who embezzles $15," says Small. "That's not justice in my eyes."

Judge Ross insists that judges will still have significant discretion within the grid: They can decide whether many offenders go to jail or serve an alternative sentence, whether to impose a minimum or maximum penalty within a particular category, and whether to give a multiple offender concurrent or consecutive sentences. "You can have the same crime," he says, "but some offenders are drug addicts who need rehabilitation and others are career criminals. The judge is in the best position to make that decision, and the grid leaves room for that."

Victims' rights groups are concerned that the sentences, tied deliberately to resources, will be diluted when money is tight. "I worry that the legislature will chip away at a system that probably won't be adequately funded to begin with," says Catherine Gallagher Smith, executive director of the North Carolina Victim Assistance Network and a member of the Sentencing Commission. "I foresee someone sitting behind a computer, punching in numbers and saying, 'We need 2,500 beds by September 30, so we need to decrease the sentence for this category of offenses.'"

What would happen to a Eugene Morgan if he walked into Wake County courtroom 3A in January of 1995? He certainly wouldn't plea-bargain for a 20-year sentence. As an H and I level offender committing a second-time offense, he would fall under community sanctions. If the judge found that the crimes were committed to support a drug habit, drug treatment would be part of the sentence. Backing it up would be a suspended prison term—somewhere between four and eight months—in case the alternative sentence was violated.

If Morgan's record were horrendous—a long litany of larcenous acts—the judge would move his finger farther along the grid. As a habitual offender at the H and I levels, Morgan could then receive 10 to 12 months on intermediate sanctions, with a suspended sentence of at least 10 months in jail. There is no question that this will seem to many people a disturbingly light penalty for burglary, which is after all an act of violence against property if not against human beings. At least, however, the state will not be setting armed robbers free so that burglars can serve time.

"It's going to be an interesting experiment," says corrections chief Freeman. "Like all Southern states, our primary emphasis has been 'lock 'em up and throw away the key.' This is an effort to strike a balance between incarceration for those who really need it and punishment short of that for those others we can manage without threat to society." G

Prison alternatives

ROBERT C. RUFO

Now comes the sheriff of Suffolk County – crusader for the double-bunking of inmates at the Nashua Street Jail, chief proponent of the new warrants law, ardent supporter of tough on crime initiatives such as "truth-in-sentencing" and bail reform – arguing for alternatives to incarceration. An inconsistency? No. It is a concept that needs support from those most in tune with the successes, failures and expenses of our criminal justice system.

Although there is a clear need for new prison space in Massachusetts, the last decade has shown that simply building more correctional facilities, without employing other strategies to deal with crime, will not work. Consider Suffolk County. In January 1992, the new house of correction at South Bay opened with 832 inmates who were transferred from Deer Island. Only three years later, the inmate population has risen to more than 1,400. Several factors have contributed to this 68 percent increase. Among them are new and important developments such as truth-in-sentencing, increased use of mandatory sentences and the implementation of the computerized warrants management system.

At an annual cost of approximately $26,300 per inmate at the house of correction, it seems prudent to try to slow the rate at which individuals are being incarcerated. Recognizing this, House Speaker Charles Flaherty has filed a bill to "intensify the supervision, sanctions and rehabilitation of offenders who are subject to intermediate sanctions" as outlined in the truth-in-sentencing law.

A recent informal study of the Suffolk County courts revealed that an individual is convicted of an average of five to six felonies before serving even one day in prison. This shows how strong the case is for increased resources to probation for intermediate sanctions. Tighter sanctions, including closer supervision by adequate numbers of probation officers, with emphasis on compulsory participation in substance abuse and adult literacy/education programs, might correct problems after a first or second offense, rather than waiting to incarcerate after the fifth offense. As Commissioner of Probation Don Cochran said recently, "the profile of the probation population has worsened considerably in the last 10 years and additional 'firepower' is needed to properly control their behavior in the community."

Of the inmates sentenced to South Bay in 1994, 73 percent were convicted of nonviolent crimes. Eighty-two percent admit having moderate to severe problems with alcohol or drug abuse. An estimated 70 percent have less than high school competence, and roughly 40 percent have tested with a rating of "semi-literate" or below (i.e. eighth grade reading level down to total illiteracy). Yet, due in large part to the heavy programmatic emphasis, the recidivism rate at the house of correction is 44 percent – a figure that compares favorably with statewide and national statistics.

In short, it means that in 56 percent of the cases, participation in substance abuse treatment programs, adult basic education programs, and vocational training results in inmates leaving the institution and returning to the community as constructive, contributing, "work-ready" individuals who do not return to prison. If these programs can work for the incarcerated, they can work for the offender in an enhanced, intensive probation setting, especially if failure will result in yet stronger sanctions.

Furthermore, one of the provisions of the truth-in-sentencing statute calls for rationing correctional facility capacity and other criminal justice resources to afford sufficient space to incarcerate violent offenders. Even the much touted federal crime bill's prison expansion provisions are directed at space for violent offenders. Prior to this bill, the issue of how to deal with increasing numbers of nonviolent offenders had been ignored.

Across the commonwealth, sheriffs already operate a variety of community service restitution programs where appropriate inmates close to release remove graffiti, paint schools, clean empty lots and remove snow from walkways. Persons convicted of nonviolent offenses and placed on probation could be directed into some of these existing programs.

Massachusetts needs more prison beds to handle the inmate population and must continue the trend toward tougher criminal laws to deal with the violent or the incorrigible offender.

Additionally, we need to keep incarceration costs in check by reducing the rate at which offenders become prisoners. In order to achieve that goal, we need to find commonsense approaches to dealing with correctable offenders earlier.

Intensive, compulsory programs work within correctional institutions but at the considerable expense of providing housing to the offender. We can achieve the same success, if we carefully adjust our approach.

Robert C. Rufo is the sheriff of Suffolk County.

The Boston Globe: March 24, 1995

Commonwealth of Massachusetts
Executive Office of Public Safety

Criminal History Systems Board

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MISSION

Created in 1972 by the Criminal Offender Record Information (CORI) Act (M.G.L. c.6, s.167-178B), and governed by a seventeen member board of representatives of the criminal justice community, the Massachusetts Criminal History Systems Board (CHSB) serves as the hub for information services for the law enforcement and criminal justice communities. The CHSB operates the Commonwealth's Criminal Justice Information System (CJIS). This fully computerized information system consists of a state of the art mainframe computer, a state wide data communications network, and 1500 data terminals, Personal Computers, and Mobile Data Terminals (MDTs). CJIS also acts as an interface with out of state criminal justice agencies, providing access to Massachusetts data, including criminal records. CJIS operates twenty four hours a day, seven days a week, three hundred and sixty-five days a year.

The CHSB is also responsible for the administration of the Criminal Offender Record Information (CORI) statute. Accordingly, the CHSB disseminates criminal record information to the criminal justice community and to the general public. This data is provided around the clock to criminal justice agencies via the CJIS network. Requests for information from the general public are handled via U.S. Mail.

The CHSB pursues its mission from its offices in Boston. However, the agency is currently planning for its relocation to Chelsea in November of 1995.

Criminal Justice Information System

The CHSB operates the Commonwealth's Criminal Justice Information System (CJIS). This computer based criminal justice data highway provides law enforcement and criminal justice officials with twenty-four hour access to critical criminal justice data.

Key Facts:

- CJIS processes over 1 million messages each day
- more than 1,500 data terminals, PC's, and Mobile Data Terminals (MDT's) currently access the CJIS
- users include 276 local Police Departments, as well as State, County, and Federal criminal justice agencies
- access is provided to the following:
  - state and national wanted/missing person and stolen property files
  - the Suicide Risk file
  - the automated criminal record files
  - the FBI's National Crime Info Center
  - the Registry's Automated License and Registration System
  - the National Law Enforcement Telecommunications System (NLETS)
  - the registration, license, and criminal record files of the other 49 states, the District of Columbia, and Canada
- technical and administrative assistance is provided to cities and towns

For more information or assistance, please

C.O.R.I.

The CHSB's CORI Unit processes requests for criminal record information from state, county, and municipal government agencies as well as from the general public.

- processes 9,000 to 10,000 requests/week
- assists in correcting inaccurate criminal records; investigates reports of improper access to, or dissemination of, CORI
- conducts CORI compliance audits
- provides legal assistance and advice on matters related to the CORI law

Victim Services

The Victim Services Unit:

- certifies victims to receive notice of an offender's release (M.G.L. c.258B and c.6, S.172b)
- certifies victims for access to CORI and additional offender information (M.G.L. c.6, s.178A)
- provides information, resources, referrals, crisis intervention, and safety planning assistance
- facilitates outreach and training to criminal justice agencies as well as to victim organizations and programs
- operates the new, automated Victim Certification Program

Recent Achievements

- CORI Automation
- Domestic Violence/Restraining Order File
- Criminal Justice Records Improvement Task Force/Working Group
- Parole data integration
- Department of Correction data integration
- Welfare/Child Support/D.O.R/I.R.S. matching
- Establishment of Victim Services Unit
- On-line access to Firearms Record data

Ongoing Efforts

- NCIC 2000
- Software Re-engineering
- Department of Youth Services data
- PC based technologies
- Agency move to Chelsea Data Center
- Victim data automation
- WAN connections to other state agenicies

For more information or assistance, please call the C.H.S.B. at (617) 727-0090 and speak to one of the following:

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Questions regarding victim's rights should be directed to the Area Director

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Workshop E

Teen Violence Prevention: It Starts Here

Teen Violence Prevention: It Starts Here

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More than 1 in 10 report going to high school armed, CDC says

By A. J. Hostetler
ASSOCIATED PRESS

ATLANTA – School can be hazardous to a teen-ager's health, according to the government's first nationwide survey of schoolyard violence.

More than one in 10 high school students said they carried a weapon on school property, and nearly one-fourth of those surveyed said they were offered, sold or given drugs on campus.

About 16,000 students in grades nine through 12 in public and private schools were asked about school-related violence – as well as sex, exercise, diet and smoking – in the 1993 survey by the Centers for Disease Control and Prevention. The results were released yesterday.

"Violence in the school is a major health problem for teens," said Dr. Marjorie Hogan, a Minneapolis pediatrician and a spokeswoman for the American Academy of Pediatrics. "This study should be a call to action, a rallying point."

The findings:

- 11.8 percent of those surveyed carried weapons on campus in the previous month.
- 24 percent said they were offered, sold or given an illegal drug at school in the previous year.
- 16.2 percent said they had been in a fight at school in the previous year.
- 7.3 percent were threatened or injured with a weapon while at school.
- 4.4 percent of students skipped school at least one day in the previous month because they felt unsafe.

"Even students who don't engage in that are exposed to violence," said one of the report's authors, Laura Kann of the CDC's Division of Adolescent and School Health.

The survey was prompted by the national education goals set by the government in 1989. They called for every school to be free of drugs and violence by the year 2000.

It is not enough to expel students who carry weapons or cause fights in classes, because they take the problem back to their neighborhoods, said Keith Geiger, president of the National Education Association, the nation's largest teachers union.

The Boston Globe, 3/31/95

Source:
Centers for Disease Control. *Morbidity and Mortality Weekly Report*. March 24, 1995

Youth Risk Behavior Surveillance — United States, 1993

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Abstract

Problem/Condition: Priority health risk behaviors that contribute to the leading causes of mortality, morbidity, and social problems among youth and adults often are established during youth, extend into adulthood, and are interrelated.

Reporting Period: February through May 1993.

Description of System: The Youth Risk Behavior Surveillance System (YRBSS) monitors six categories of priority health risk behaviors among youth and young adults: behaviors that contribute to unintentional and intentional injuries, tobacco use, alcohol and other drug use, sexual behaviors, dietary behaviors, and physical activity. The YRBSS includes a national, school-based survey conducted by CDC and state and local school-based surveys conducted by state and local education agencies. This report summarizes results from the national survey, 24 state surveys, and nine local surveys conducted among high school students during February through May 1993.

Results and Interpretation: In the United States, 72% of all deaths among school-age youth and young adults are from four causes: motor vehicle crashes, other unintentional injuries, homicide, and suicide. Results from the 1993 YRBSS suggest that many high school students practice behaviors that may increase their likelihood of death from these four causes: 19.1% rarely or never used a safety belt, 35.3% had ridden with a driver who had been drinking alcohol during the 30 days preceding the survey, 22.1% had carried a weapon during the 30 days preceding the survey, 80.9% ever drank alcohol, 32.8% ever used marijuana, and 8.6% had attempted suicide during the 12 months preceding the survey. Substantial morbidity and social problems among adolescents also result from unintended pregnancies and sexually transmitted diseases, including human immunodeficiency virus (HIV) infection. YRBSS results indicate that in 1993, 53.0% of high school students had had sexual intercourse, 52.8% of sexually active students had used a condom during last sexual intercourse, and 1.4% ever injected an illegal drug. Among adults, 67% of all deaths are from three causes: heart disease, cancer, and stroke. In 1993, many high school students practiced behaviors that may increase the risk for these health problems: 30.5% of high school students had smoked cigarettes during the 30 days preceding the survey, only 15.4% had eaten five or more servings of fruits and vegetables during the day preceding the survey, and only 34.3% had attended physical education class daily.

Actions Taken: YRBSS data are being used nationwide by health and education officials to improve school health policies and programs designed to reduce risks associated with the leading causes of mortality and morbidity. At the national level, YRBSS data are being used to measure progress toward achieving 26 national health objectives and one of eight National Education Goals.

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WHAT CAN SCHOOLS DO TO RESPOND?

CRIMINAL ISSUES PERTAINING TO TEEN DATING VIOLENCE AND CONSIDERATIONS FOR SCHOOL POLICY DEVELOPMENT

With the alarming statistics indicating that dating violence affects at least 1 in 10 teen relationships it is becoming paramount that schools develop policies to respond to the increase and severity of interpersonal violence. Policies need to address methods to increase awareness of the issues for both students and staff, and to give the clear message to students, staff, and the community that violence will not be tolerated. The development of policies and procedures will help create a school climate that is supportive, respectful, and committed to providing a safe environment conducive for learning. The following information was prepared in the spirit of such efforts promoting violence prevention and intervention. Additionally, the development of a multidisciplinary approach including the police, courts and community should be considered to best address these issues in a coordinated manner.

WHAT ARE COMMON CRIMES THAT MAY BE COMMITTED BETWEEN STUDENTS?

ASSAULT (M.G.L. ch.265, §13A)
is an attempt or offer to do bodily injury by force or violence or an attempt to batter.

ASSAULT AND BATTERY (M.G.L. ch. 265, §13A)
is a harmful or unpermitted touching of another, no matter how slight, without a legal right to do so.

ASSAULT AND BATTERY BY MEANS OF A DANGEROUS WEAPON (M.G.L. ch. 265, §15)
is a battery with a dangerous weapon. A DANGEROUS WEAPON is an item which is used in a way that is capable of causing serious injury or death to another person. Examples can include a pencil aimed at one's eye, a cigarette used to burn someone, a baseball bat, a pair of scissors, and even a shod foot.

THREATS (M.G.L. ch. 275, §4)
it is illegal to make verbal or written threats which a victim reasonably believes the defendant can commit.

STALKING (M.G.L. ch. 265, §43(a))
is the willful, malicious and repeated following or harassing of an individual AND making threats with intent to place that person in imminent fear of death or serious bodily injury.

STALKING IS A CRIME THAT THE SCHOOL MUST REPORT TO THE POLICE.

WHAT SHOULD SCHOOL PERSONNEL DO IF ANY OF THE ABOVE CRIMES ARE COMMITTED IN SCHOOLS?

School policies should address the consequences. including suspension and/or expulsion for any known criminal activity. Policies should include the steps for disciplinary action, recommended interventions. plans for assuring the victim's safety, and protocols for notifying administrators, parents and police.

WHAT ARE CONSIDERED SEXUAL OFFENSES?

INDECENT ASSAULT AND BATTERY ON A CHILD UNDER 14
(M.G.L. ch. 265, §13B)
is an intentional. offensive indecent touching of a child under the age of fourteen. Consent is not a defense to the touching.

INDECENT ASSAULT AND BATTERY (M.G.L. ch. 265, §13H)
is an intentional. offensive touching of a person fourteen years of age or older, without their consent.
NOTE:An indecent touching is an offensive touching of the breast, abdomen, buttocks, thighs, or genital area, portions of the anatomy considered to be "private."

RAPE OF A CHILD UNDER THE AGE OF SIXTEEN
(Statutory Rape", M.G.L. ch. 25, §23)
is the unlawful sexual intercourse or unnatural sexual intercourse with a child under sixteen years of age. A child under the age of sixteen is incapable, as a matter of the law, to consent to sexual intercourse, unless married to their partner.

RAPE OF A CHILD UNDER SIXTEEN BY FORCE OR THREAT
(M.G.L. ch. 265, §22A)
is the unlawful sexual intercourse or unnatural sexual intercourse with a child under the age of sixteen with the use of force or threats. It is the use of force or threats which distinguishes this crime from "statutory" rape.

RAPE (M.G.L. ch. 265, §22)
is sexual intercourse or unnatural sexual intercourse committed against one's will with the use of force or the threat of bodily injury. Rape includes penetration into any bodily orifice (mouth, anus or vagina by a penis, finger, tongue or any other object.)

WHAT SHOULD SCHOOL PERSONNEL DO WHEN THEY DISCOVER A CRIME INVOLVING SEXUAL ABUSE HAS BEEN COMMITTED?

School personnel are *MANDATED REPORTERS* in accordance with M.G.L. ch.119, §51A, and therefore must report cases of sexual abuse, including rape and indecent assault and battery involving students under the age of eighteen.

WHAT DOES THE LAW MANDATE?

The law mandates that school personnel. including administrators. teachers. and counselors who HAVE REASONABLE CAUSE TO BELIEVE THAT A CHILD UNDER THE AGE OF 18 IS SUFFERING SERIOUS PHYSICAL OR EMOTIONAL ABUSE/NEGLECT INFLICTED UPON HIM/HER INCLUDING SEXUAL ABUSE MUST IMMEDIATELY REPORT SUCH INCIDENT(S) to the Department of Social Services.

The law does not ask the mandated reporter to assess whether the perpetrator was in a caretaking role. Rather, it requires the mandated reporter to file a 51A report WHENEVER THERE IS REASONABLE CAUSE to believe a child under the age of eighteen is suffering from abuse/neglect. The verbal (phone) report must be made immediately, followed by a written report within 48 hours. A staff member as a Mandated Reporter, of a public or private school must immediately notify the designated person in charge or responsible for receiving such information. That person than becomes responsible for filing the report. FAILURE TO COMPLY with the statute may result in a fine of $1,000.00. *Mandated Reporters are not liable in any civil or criminal actions by filing a report.

NOTE: It is recommended that school systems develop and implement policies and procedures to address the issues of sexual abuse including

- procedures for filing 51A reports in compliance with the Reporting Law;
- procedures for informing administrators, police and parents about sexual assaults; and
- policies for dealing with victims and perpetrators of sexual assaults.

INTERVENTION FOR ABUSIVE RELATIONSHIPS

WHAT IS A 209A (Restraining Order)?

THE ABUSE PREVENTION ACT (M.G.L. ch. 209A) is the statue often referred to as a "Restraining Order;" it provides protection from abuse.

ABUSE IS DEFINED BY THE OCCURRENCE OF ONE OR MORE OF THE FOLLOWING:

- attempting to cause or causing physical harm;
- placing another in fear of imminent serious physical harm;
- causing another to engage involuntarily in sexual relations by force, threat or duress.

NOTE: EACH OF THE ABOVE ACTIONS CAN BE CONSIDERED ASSAULTIVE CRIMINAL OFFENSES INDEPENDENT OF AN ACTUAL RESTRAINING ORDER. (Refer to previously described crimes.)

WHO CAN APPLY FOR A RESTRAINING ORDER?

THE STATUTE APPLIES TO INDIVIDUALS WHO:

- are or have been in a substantial dating relationship;
- are or were residing together in the same household (including gay and lesbian relationships, roommates, couples living together, parents and children);
- are related by blood, related by marriage or were related by marriage; or..
- are or were married to each other.

WHAT DOES A 209A DO?

Issued by a judge through the courts, a 209A Order places additional limits on the interactions between two parties for protection from further abuse.

WHAT LIMITS CAN BE IMPOSED BY THE COURTS?

A 209A ORDER MAY INCLUDE:

- an order that the defendant refrain from abusing, hurting or harassing the plaintiff in any way, verbally or physically;
- an order that the defendant stay away from the victim at home, work, school or any other place the victim may be (this may include staying away from places the plaintiff's child may be);
- an order that the defendant vacate the household (regardless of who holds the title to the house);
- an order for the defendant to surrender guns, firearm license or identification
- an order for temporary custody and/or support for minor children;
- an order for monetary awards for personal damages, out-of-pocket expenses for changing locks, repair of personal property, etc...;
- an order for a police escort to collect belongings, an order for the batterer to turn over keys or car;
- an order that the victim's address be kept confidential for protection (IT IS IMPORTANT THAT THE VICTIM'S ADDRESS NOT APPEAR ON ANY DOCUMENT TO WHICH THE DEFENDANT HAS ACCESS.); and,
- the judge can recommend that the defendant attend a recognized batterer's treatment program.

HOW DO 209A ORDERS GET ISSUED?

209A ORDERS MAY BE ISSUED BY ANY TRIAL COURT IN MASSACHUSETTS
(including all Probate and Family, District and Superior Courts.)

The district court location for the issuance of an order must be:

- either the court covering the victim's residence where the abuse occurred, or
- the district court for the victim's new address if s/he relocates to avoid further abuse.

IT IS ESSENTIAL THAT THE ORDER BE ISSUED BY THE PROPER COURT.

WHAT HAPPENS IF AN ORDER IS VIOLATED?

VIOLATION OF A 209A ORDER IS A CRIMINAL OFFENSE. It is critical that the victim's safety be considered at all times. As long as the 209A is in effect on the given day, a copy of the certified order is on record, and it is believed that a violation has occurred, the police should be notified. A violation is considered to be the abuser's non compliance of the limits, restrictions or demands of what is written on the 209A order.

WHAT CAN A SCHOOL SYSTEM DO TO HELP PROTECT A STUDENT WHO HAS TAKEN OUT A RESTRAINING ORDER?

Staff and student awareness of dating violence issues are increased through training, policy development and implementation. It is hoped that all students will have an understanding of the school's sensitivity and commitment to insure safety for students who have obtained a restraining order through the court, through the utilization of safety plans and development of protective measures in school. School systems may want to develop their policies in collaboration with the police, courts, shelter legal advocates and the D.A.'s office. With this in mind, students should be encouraged and feel comfortable in approaching administrators to assist them in the process, so that the appropriate actions and safety planning will occur.

ONCE THE SCHOOL IS NOTIFIED OF A STUDENT'S RESTRAINING ORDER:

- The school administrator may want to hold SEPARATE meetings with each student and his/her family to gather any information, review the order and the implications.

Included as a part of this meeting should also be an agreement as to who this information will be shared with.

- A "Safety Plan" should be worked out to address the victim's needs, including "safety stops," staff to report to if concerns arise or a violation occurs, and any schedule changes that may be considered. This meeting should include a discussion of guidelines for appropriate behavior of the victim, such as not making comments to others which may inflame the situation.

- With the named defendant, it is important to review the terms of the order, expectations around appropriate behavior, and the consequences for violation of the order.

- When possible it is important to address and make schedule changes to avoid face-to-face contact. When schedule changes are not possible, guidelines should be established around expected behavior.

WHAT GUIDELINES SHOULD BE CONSIDERED?

- It is important to establish clear guidelines around expected behavior in compliance with the issued order, for the benefit and safety of all parties. These could include: delineation of space between parties (feet, yardage, routes to classes), class or schedule changes. Giving a clear message that there be no exchange (verbal or non-verbal, threatening or non-threatening) of comments, notes, gifts, gestures is critical. This also includes no exchange of messages, notes, gifts through a third party friend, student or staff member.

NOTE: Given the reality of the close proximity within the school setting and / or the possibility of both students needing to remain in the same class, the order may need to be amended to reflect clear guidelines around contact in such instances.

- IT IS IMPORTANT TO UNDERSTAND THAT THE ONUS OF THE RESTRAINING ORDER IS ON THE DEFENDANT. A VICTIM CANNOT VIOLATE THE RESTRAINING ORDER, THOUGH REALISTICALLY, REASONABLE BEHAVIOR AND COOPERATION IS REQUIRED BY BOTH PARTIES.

WHAT SHOULD HAPPEN IF IT APPEARS THAT THE ORDER IS BEING VIOLATED?

- VIOLATION OF A RESTRAINING ORDER IS A CRIMINAL OFFENSE AND SHOULD BE TREATED SO, BY REPORTING IT TO THE PROPER AUTHORITIES. (Schools may want to develop their own internal reporting mechanism. but ultimately the violation must be reported to the police.)

  NOTE: It is important that the school support the victim in reporting any violations that have been witnessed or reported. The school does not need to be the judge as to the violation. but should report the violation to the proper authorities for their determination of the necessary action to be taken.

WHAT IS SEXUAL HARASSMENT?

HARASSMENT Under the (M.G.L ch.151C §1 (e))

Sexual Harassment is defined as "any sexual advances, requests for sexual favors and other verbal or physical contact of a sexual nature when: (i) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or provision of benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonable interfering with an individual's education by creating an intimidating, hostile, humiliating or sexual offensive educational environment.

WHAT MIGHT HARASSMENT LOOK LIKE IN SCHOOL?

In school, sexual harassment can cover a wide range of behaviors, including sexual insults, name-calling, off-color jokes, intimidation by words, actions, or gestures, offensive touching, and pressure for sexual activity. It can be perpetrated by peers, school personnel or other individuals who are involved within the school setting. Sexual harassment can be student to student, staff to student, student to staff or staff to staff.

WHAT SHOULD SCHOOLS DO TO CREATE AN ENVIRONMENT FREE OF SEXUAL HARASSMENT?

It is critical that schools begin to address the issue of harassment through education of students and faculty, through the development and implementation of curriculum, and through the development of policies and procedures that clearly define the issues, expected behaviors, protocols for reporting, and consequences for violations. (Refer to DOE Guidelines (11/93) for more information)

CAN SCHOOLS BE HELD LIABLE FOR NOT ADDRESSING ISSUES AROUND HARASSMENT?

YES, under Title IX of the Educational Amendments of 1972, which prohibits sexual harassment in education, victims of sexual harassment and other forms of sex discrimination may sue their school district for monetary damages.

WHAT IS THE DIFFERENCE BETWEEN SEXUAL HARASSMENT AND DATING VIOLENCE?

Sexual harassment and dating violence lie on a continuum of sexual violence; therefore, it is important to develop a repertoire of interventions after careful evaluation of the reported situation. The evaluation should include separate conversations with the involved parties to gather that facts, and to assess the risk factors and severity of the situation.

ASSESSMENT INFORMATION SHOULD INCLUDE:

- THE FREQUENCY AND NUMBER OF INCIDENTS:
  - pattern or isolated incident, or
  - first time reported incident or have there been previous reported incidents.
- PRESENCE OR ABSENCE OF FEAR
- PHYSICAL OR EMOTIONAL INTIMIDATION
- THREATS (homicidal, non-homicidal, or suicidal)
- EVIDENCE OF SEXUAL ASSAULT OR RAPE

SCHOOL POLICIES, PROTOCOLS, PROCEDURES AND INTERVENTIONS SHOULD DIFFERENTIATE AMONG:

a. a single incident in which fear is not present;

b. a pattern of harassment, intimidation, stalking and threats; and,

c. situations that involve sexual assault, rape, homicidal and suicidal threats.

WHEN IS HARASSMENT A WARNING SIGN FOR ABUSE?

Harassment should always be considered as a possible indicator of abuse in a relationship.

(This material was prepared through the collaborative efforts of staff from the Essex County District Attorney's Office, Help for Abused Women and Their Children, and the Massachusetts Regional Prevention Center, Salem)

The Commonwealth of Massachusetts
Department of Education

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Recommendations on the Support and Safety of Gay and Lesbian Students

Public health and educational research has documented that gay and lesbian students and other students dealing with sexual identity issues face increased risk of violent victimization, harassment, and discrimination, impeding their ability to do well in school. In addition, due to their low self-esteem, lack of support, and family difficulties, some of these students may be at greater risk for alcohol and other drug abuse, suicidal behavior, infection with HIV and other sexually transmitted diseases, and homelessness.

In response to these concerns, Governor William F. Weld signed an executive order in February, 1992, establishing the Governor's Commission on Gay and Lesbian Youth. In February, 1993, the Commission issued its report, Making Schools Safer for Gay and Lesbian Youth: Breaking the Silence in Schools and in Families, which makes recommendations regarding educational issues.

Based on the recommendations in this report, the Board of Education voted in May, 1993, to adopt the following steps to improve the safety of schools and school-based support services for these students:

1. **Schools are encouraged to develop policies protecting gay and lesbian students from harassment, violence, and discrimination.**

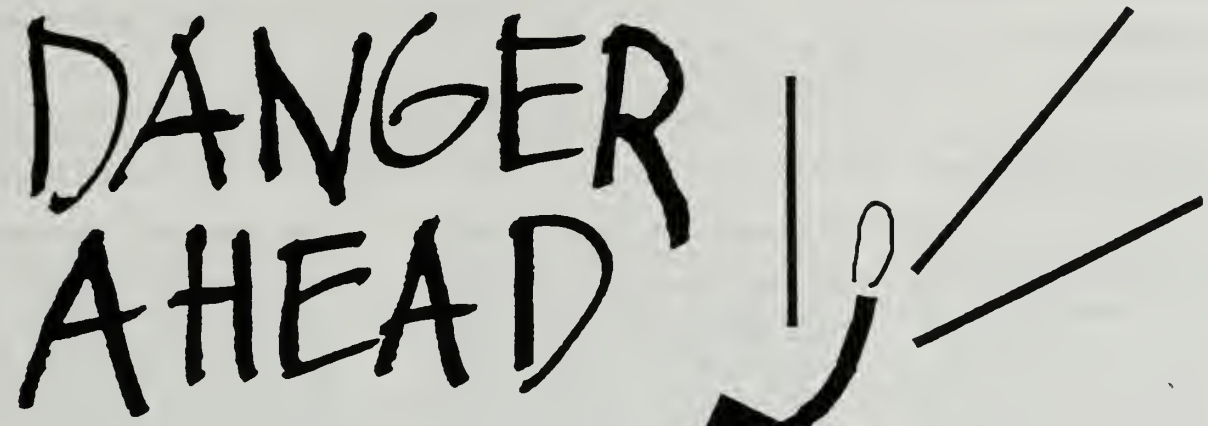
In order to guarantee the rights of all students to an education and to prevent dropping out, school policies should include sexual orientation within anti-discrimination policies, as well as within policies which guarantee students' rights to an education and to equal access to school courses and activities.

In order to make schools safe for all students and to prevent violence and harassment, schools should amend existing anti-harassment policies to include prohibiting violence, harassment, and verbal abuse directed against gay and lesbian students and those perceived to be gay or lesbian. Incidents of anti-gay abuse should be treated with the same discipline procedures as other incidents involving bias and hatred.

2. **Schools are encouraged to offer training to school personnel in violence prevention and suicide prevention.**

In order to prevent violence in schools, teachers, guidance counselors, and all school staff should be provided with training in violence and suicide prevention, including the particular issues/concerns of gay and lesbian students.

FROM: "Preventing Teen Dating Violence - A three session curriculum for teaching adolescents." Written by C. Sousa, et al. DVIP.



Early Warning Signs of Teen Dating Violence

Are you going out with someone who...

- Is jealous and possessive toward you, won't let you have friends, checks up on you, won't accept breaking up.
- Tries to control you by being very bossy, giving orders, making all the decisions; doesn't take your opinion seriously.
- Is scary. You worry about how they will react to things you say or do. Threatens you, uses or owns weapons.
- Is violent: has a history of fighting, loses temper quickly, brags about mistreating others.
- Pressures you for sex, is forceful or scary around sex. Thinks women or girls are sex objects. Attempts to manipulate or guilt trip you by saying "If you really loved me you would..." Gets too serious about the relationship too fast.
- Abuses drugs or alcohol and pressures you to take them.
- Blames you when they mistreat you. Says you provoked them, pressed their buttons, made them do it, lead them on.
- Has a history of bad relationships and blames the other person for all the problems. "Girls just don't understand me."
- Believes that men should be in control and powerful and that women should be passive and submissive.
- Your family and friends have warned you about the person or told you they were worried for your safety.

Source:
"Coping with Violence in Schools: A Report Given by Carol Sousa." 1993 Summer Conference of the Center for School Counseling Practitioners. Harvard University Graduate School of Education, Cambridge, MA.

DATING VIOLENCE

Definition and Scope

Though it is not surprising, given the extent to which our culture condones violence, it is particularly troubling that violence is characteristic of many adolescent dating relationships. Like domestic violence, dating violence can include a continuum of behaviors. It may involve insults, embarrassment, rumors, name-calling, suspicion, or belittlement, all of which serve to undermine one partner's self-esteem and to establish the other's dominance and control. This control may reflect a need to have sexual access to the submissive partner or a desire to make the submissive partner conform to the dominant partner's wishes. The dominant partner may also use intimidation, threats, and physical abuse to control the submissive partner's behavior, body, time, thoughts, or sexuality.

Like domestic violence, dating violence is being reported by young people in every community, cutting across class, race, religion, and sexual orientation. According to some studies:

- At least 1 in 10 adolescents experience some form of violence in their dating relationships.
- In the majority of rapes reported to rape crisis centers, the victims are between the ages of 16 and 24.
- 60% of all rapes reported to rape crisis centers are perpetrated by acquaintances. (Sousa, 1993)

Consequences

Like all violence, dating violence stifles a victim's psychological, social, and academic development. Early evidence of dating violence may include changes in make-up and dress, truancy from classes and school, sudden social isolation, difficulty with decision-making, changes in mood or personality, drug or alcohol use, and teenage pregnancy.

Many adolescents enjoy having a variety of relationships with peers and participating in several extra-curricular activities. But victims of dating violence frequently experience social isolation. They may withdraw from clubs and friendships, often because a jealous and domineering partner objects or will not tolerate interests outside the relationship.

Another consequence of dating violence may be failure in school. First experiencing problems with concentration and attention, victims may slowly withdraw from classes, be occasionally truant, and eventually drop out of school altogether. Among girls, increased drug or alcohol use and teen pregnancy are possible reactions to dating violence.

Even for adults, verbal abuse and other forms of degradation injure self-esteem and self-confidence. For the young adolescent, the violent peer relationship is extremely frightening and confusing. Teenagers may not know how to protect themselves from dating violence. Young people who have been exposed to violence in the home may be unfamiliar with safe, trusting, respectful relationships. Violence in teenage dating relationships creates unhealthy cycles in which the submissive partner's wishes and opinions are discounted or ignored. Such injuries and imbalance increase the likelihood of future physical and sexual abuse.

Intervention

Some adults don't take teen relationships seriously and overlook dating violence when it is reported to them. It may trigger uneasiness within them about hurtful relationships in which they have been involved. But dating violence is terribly damaging. Early intervention and protection are more likely to happen if adults are alert to the warning signs. Perpetrators of dating violence, who may have a history of harassment, sometimes exhibit warning signs too, including insulting remarks or references to women; reports of abuse, changes in patterns of alcohol or drug use, jealous behavior toward or sexual pressuring of a partner, involvement with younger partners, suicide threats or attempts.

Schools and community organizations can help to prevent dating violence by teaching about it. Girls who feel good about themselves and their abilities are more likely to find mutually respectful relationships than those whose self-esteem is poor. Many boys need to learn that they have choices about whether or not to use violence in relationships. Both victims and perpetrators benefit from counseling. Some teaching programs, like the "Dating Violence Intervention Curriculum," are designed to help teachers and counselors address questions related to dating violence, such as:

- What is abuse?
- Who has the power?
- What cultural attitudes do young people pick up about how men and women are supposed to act in relationships? How do these attitudes lead to violence?
- What is an abusive relationship like?
- How can we prevent dating violence?

Schools need to discipline young people who hit others and make it very clear that violence is not acceptable. In addition to preventive education, teacher training, parent workshops, peer-led programs about dating violence, and support groups for victims can help restore self-esteem and teach girls that they have a right to feel safe in relationships with boys.

It should be noted that **mediation is not recommended as an intervention for dating violence.** Mediation may give the message that dangerous disagreements between two young people in a dating relationship are rather straightforward "conflicts" that need to be resolved. But the dynamics of dating violence are often very complex and dangerous. And, in fact, victims have every right to insist that manipulative or violent behavior directed toward them absolutely must stop.

From: Dating Violence Intervention Project, 1995.

ANONYMOUS STUDENT QUESTIONNAIRE - DRUGS, ALCOHOL AND SEX

WHO WE ARE:

The "Night Before Group" is a group of women students at CRLS who are studying whether alcohol and drug use might be connected with violence in our dating relationships. If you choose to fill out this survey, you will not be identified in any way. All we want are your real opinions and experiences. We will give this information back to the CRLS community. Feel free to write any comments next to questions or at the end.

I. ABOUT YOURSELF (Please circle your answers)

1. Are you Male Female

2. Grade level 9 10 11 12

3. How do you feel about school?

a)	Are grades important to you?	Yes	No
b)	Are you interested in some of what you're studying?	Yes	No
c)	Are you generally happy with CRLS as your high school?	Yes	No
d)	Do you have clear plans yet for after high school?	Yes	No

4. After school, what do you do most often?

job
homework
sports
hang with friends
club
other(s)_____ _____ _____

5. a) Do you have someone older you can really talk to who listens to you? Yes No

b) When you have a problem, who do you turn to: (please circle one or more)

friends
brother/sister
adult family member(s)
teacher
religious leader
coach
other(s) _____ _____

II. ALCOHOL / DRUG EXPERIENCES (Please circle your answers)

1. Do you drink alcohol? never sometimes often

2. Do you get high on any drugs? never sometimes often

(If you answered NEVER to both the above, skip Question 3.)

3. Please circle as many answers in each column below that best describe your experiences:

what you drink	when	with	amount you do
wine/wine coolers/beer	on weekends after school during school	alone friends family on a date	few sips get buzzed get wasted
hard liquor (like vodka, whisky, rum,)	on weekends after school during school	alone friends family on a date	few sips get buzzed get wasted
what other drugs you do			
marijuana	on weekends after school during school	alone friends family on a date	a few hits get buzzed get wasted
LSD (acid) or mushrooms	on weekends after school during school	alone friends family on a date	one hit/tab many hits/tabs
other (please list) _____ _____ _____	on weekends after school during school	alone friends family on a date	a little amount a lot

4. How do most teens you know get alcohol? (circle all that are true)

fake ID older relative from home older friend ask person on the street to buy
other_____ I don't know

5. Do people you know go out with people because they have or sell drugs?
never sometimes often

III. YOUR EXPERIENCES WITH FRIENDS AND RELATIONSHIPS

("Abuse" can mean hurtful behavior that is physical, sexual, mental or verbal. It can happen in both straight and gay and lesbian relationships.)

1. a) Do you think that abuse happens in teen dating relationships?
never sometimes often

b) In what percentage of relationships? 1% 10% 25% 50% 75%

2. Do you know someone who is being abused by a boyfriend/girlfriend? Yes No

3. Do you know someone who is abusing a girlfriend/boyfriend? Yes No

4. Please circle the kinds of abuse that you see or hear about:

slapping yelling put-downs punching
pushing threats of hurting use of weapon threat of weapon
sexual abuse other_____

5. In your personal/dating relationships:

Does one person have more power?	Yes	No
If yes, is that person	Female	Male
If yes, is that person	Older than you	Younger than you
Never been in personal/dating relationship		

6. In teen relationships, do you think one person should have more power than the other? Yes No

7. When people you know are together with a boyfriend/girlfriend, are alcohol or drugs present?
never sometimes often always

8. Do people you know feel they have to drink or do drugs because of a girlfriend/boyfriend?
never sometimes often always

9. Do you think teens end up doing things they normally wouldn't do when drinking or getting high?
never sometimes often always

10. Do you know people who have had regrets about having sex/fooling around because they drank/got high?
Yes No

11. When people are drinking/high, do you think they become sexual with people they would not choose otherwise?
Yes No

12. Do you think people use alcohol or drugs to tune out sexual activity they aren't really comfortable with?
Yes No

13. How often do you think people get others high/drunk to get them to have sex?
never sometimes often always

14. Do you think teen dating violence is a problem at CRLS? Yes No

15. Do you think there is a connection between drinking/doing drugs and violence between people who are going out?
never sometimes often always

16. Do you know people who have been afraid they might be pregnant or have become pregnant because alcohol or drugs made them careless about birth control?
Yes No

17. Do you know people who have contracted STD's because alcohol or drugs made them careless about protecuon?
Yes No

18. Do you know people who have been afraid that they got someone pregnant?
Yes No

FEEL FREE TO COMMENT ABOUT THE QUESTIONNAIRE OR ANY OF THE QUESTIONS:

This plan emerged from churches working in Boston's inner-city neighborhoods.

10 POINT PLAN TO MOBILIZE THE CHURCHES

Taking action in Boston.

The following 10 point proposal for citywide church mobilization is born of the realities of our day-to-day work with the youth on the streets, in the crack houses, and in the courts and jails of this city. We seek to generate serious discussion regarding the specific ways the Christian community can bring the peace of God to the violent world of our youth.

We therefore call upon churches, church agencies, and the academic theological community throughout the city to consider, discuss, debate, and implement, singly or in collaboration, any one or more of the following proposals:

1. To establish four or five church cluster-collaborations that sponsor "Adopt a Gang" programs to organize and evangelize youth in gangs. Inner-city churches would serve as drop-in centers providing sanctuary for troubled youth.

2. To commission missionaries to serve as advocates for black and Latino juveniles in the courts. Such missionaries would work closely with probation officers, law enforcement officials, and youth street workers to assist at-risk youth and their families.

To convene summit meetings between school superintendents, principals of public middle and high schools, and black and Latino pastors to develop partnerships that will focus on the youth most at risk. We propose to do pastoral work with the most violent and troubled young people and their families. In our judgment this is a rational alternative to ill-conceived proposals to suspend the principle of due process.

3. To commission youth evangelists to do street-level one-on-one evangelism with youth involved in drug trafficking. These evangelists would also work to prepare these youth for participation in the economic life of the nation. Such work might include preparation for college, the development of legal revenue-generating enterprises, and the acquisition of trade skills and union membership.

4. To establish accountable community-based economic development projects that go beyond "market and state" visions of revenue generation. Such economic development initiatives will include community land trusts, micro-enterprise projects, worker cooperatives, community finance institutions, consumer cooperatives, and democratically run community development corporations.

5. To establish links between suburban and downtown churches and front-line ministries to provide spiritual, human resource and material support.

6. To initiate and support neighborhood crime-watch programs within local church neighborhoods. If, for example, 200 churches covered the four corners surrounding their sites, 800 blocks would be safer.

7. To establish working relationships between local churches and community-based health centers to provide pastoral counseling for families during times of crisis. We also propose the initiation of abstinence-oriented educational programs focusing on the prevention of AIDS and sexually transmitted diseases.

8. To convene a working summit meeting for Christian black and Latino men in order to discuss the development of Christian brotherhoods that would provide rational alternatives to violent gang life. Such brotherhoods would also be charged with fostering responsibility to family and protecting houses of worship.

9. To establish rape crisis drop-in centers and services for battered women in churches. Counseling programs must be established for abusive men, particularly teen-agers and young adults.

10. To develop an aggressive black and Latino history curriculum, with an additional focus on the struggles of women and poor people. Such a curriculum could be taught in churches as a means of helping our youth to understand that the God of history has been and remains active in the lives of all peoples. ■

Principal authors: Jeffrey L. Brown, Union Baptist Church; Ray A. Hammond, Bethel African Methodist Episcopal Church; Eugene F. Rivers, Azusa Christian Community; Susie Thomas, Mt. Olive Temple of Christ; Gilbert A. Thompson, New Covenant Christian Center; Bruce H. Wall, Dorchester Temple Baptist Church; Samuel C. Wood, Lord's Family African Methodist Episcopal Zion Church Brown, Hammond, and Wood are members of the executive committee of the Ten Point Coalition

Ission Statement

he Ten Point coalition is an ecumenical group of Christian clergy and lay leaders working to mobilize the Christian ommunity around issues affecting black youth—especially those at-risk for violence, drug abuse, and other destructive ehaviors.

Istory

he Ten Point Coalition evolved out of a working paper entitled *Ten Point Proposal for Citywide Mobilization to ombat the Spiritual and Material Sources of Black-on-Black Violence.* This paper was initially conceived by the everend Samuel C. Wood (The Lord's Family Ministries); the Reverend Daniel L. Reason (Holy Temple Church); the everend Hessie Harris (Born Again Outreach Evangelistic Association); the Reverend Bruce H. Wall (Dorchester emple Baptist Church); the Reverend Eugene F. Rivers III and Jacqueline Rivers (Azusa Christian Community); the everend Doctor Ray A. Hammond (Bethel African Methodist Episcopal Church); and the Reverend Gilbert A. hompson (New Covenant Christian Center).

)ver a two year period the dialogue has been broadened to include drug dealers, gang members, streetworkers, neologians, seminarians, pastors, and lay leaders. In that same period we have begun to implement in our individual hurches several of the programs suggested in the *Ten Point Proposal.* The time has now come to broaden the base of hurches working to reach and save our at-risk youth.

\ccomplishments

Work done in collaboration with other community and church groups

- "Take Back the Street" Crusade - weeklong street services, cleanup, support for neighborhood crime watch, and dialogue with local drug dealers - Norfolk and Whitman Sts., (Dorchester, MA) - Summer, 1991
- Roman Catholic-Protestant dialogue - Spring, 1992 to present
- Boston Public School Headmaster's Meeting - June, 1992
- Jewish-Christian dialogue - Fall, 1992 to present
- Police Tribunal - first neighborhood-based public hearings to monitor police misconduct - November, 1992
- Police and Youth Leadership Awards Ceremony - first citywide neighborhood-based annual award ceremony to celebrate exemplary police and youth leaders - April, 1993
- Citywide Clergy Against Violence - ecumenical and interfaith mediation of disturbance at South Boston High School - May, 1993 to present
- Father's Day March - first church-based mobilization of men around issue of defending Black youth - June 20, 1993)
- Participant, Mayor's Summit on Violence (Boston, MA) - Sept, 1993
- Youth Panel Organizer, National Mentoring Institute - Harvard University (Cambridge, MA) - Oct, 1993
- Workshop Presenter, "Our Youth:Today and Tomorrow: 1st National Conference for African-American Churches, Pastors, and Community Leaders" - Howard University Divinity School (Washington, DC) - Oct, 1993
- Workshop Presenter, Congress of National Black Churches Annual Conference (New Orleans, LA) - Dec, 1993
- Workshop Presenter, Children's Defense Fund Annual Meeting (Cincinnati, OH) - Mar, 1994
- Plenary Presenter, Center for Substance Abuse Prevention Interreligious Conference (Gaithersburg, MD) - Mar, 1994
- Workshop Presenter, Social Ventures Network Conference (San Diego, CA) - April, 1994
- Participant, Religious Task Force of Boston Coalition - ecumenical and interfaith task force working on violence and substance abuse - Nov, 1993 to present
- Publication of Getting Started: The Ten Point Approach to Working with At-Risk Youth. (Produced jointly with the Information and Services Clearinghouse at Howard University Divinity School) - Dec, 1993

- Founding participant, "The Things that Make for Peace," - a national ecumenical anti-violence network - Jan, 1994 to present

Action Plan

The Ten Point Coalition has called upon churches and church agencies to work collaboratively in a number of areas, including:

1. Adopting youth gangs,
2. Sending mediators and mentors for Black and Latino juveniles into the local courts, schools, juvenile detention facilities, and streets,
3. Commissioning youth workers to do street level work with drug dealers,
4. Developing concrete and specific economic alternatives to the drug economy,
5. Building linkages between downtown and suburban churches and inner-city churches and ministries,
6. Initiating and supporting neighborhood crime watches,
7. Developing partnerships between churches and community health centers that would, for example, facilitate counseling for families and individuals under stress, offer disease prevention programs, or provide substance abuse prevention and recovery programs,
8. Establishing brotherhoods and sisterhoods as a rational alternative to violent gang life,
9. Establishing rape crisis drop-in centers, services for battered women, and counseling for abusive men,
10. Developing a Black and Latino history curriculum, with an additional focus on the struggles of women and poor people as a means of increasing literacy and enhancing self-esteem in young people.

In order to fulfill these goals churches must clearly work in partnership with schools, police, courts, the correctional sytem, other governmental agencies, social service and community agencies, the health care system, and the private sector. Those partnerships have been and are being built.

Activities

Tuesday and Friday Night Street Work and Training

Since May, 1992 the Coalition has sponsored a night street ministry which offers an opportunity for persons to be trained in working in an urban setting (Dorchester and Cambridge) with at-risk youth. To date a total of 50 persons have been involved in this training.

Participants meet at 9:30 PM. Activities include:

- Street corner discussion with gang members and drug dealers
- Counseling for youth
- Participation in mediation efforts between warring gangs
- Provision of assistance/referral for jobs, housing, education,drug treatment, etc.
- Neighborhood tours led by at-risk youth from the neighborhood
- Support of existing street ministries to the homeless
- Participation in neighborhood crime watches and patrols
- Patrols at sites, e.g. churches or street corners, which have been plagued by high levels of criminal activity (drug dealing, prostitution, etc.)
- Meetings with youth agency workers—streetworkers, community center workers, police youth officers, patrol officers, et al—on their beats

Night activities generally end between 1:00 and 3:00 AM, followed by a debriefing. We also meet during daytime hours with probation officers, judges, police supervisors, youth workers, etc.

Participants are encouraged to develop at least two relationships on an on-going basis with at-risk youth in their local areas. Those relationships and their progress are reviewed and discussed.

reedom Summer

Ve're particularly excited about the possibilities for a program called Freedom Summer '94. Supported by a wide range f organizations, including the Archdiocese of Boston, the Religious Task Force of the Boston Coalition, the Jewish ommunity Relations Council, and the American Baptist Churches of MA, this program will target some of the most iolent neighborhoods in Boston for intensive attention in the summer of 1994 (which is precisely thirty years after Mississippi Freedom Summer). It will involve high school, college and graduate students (including seminary students), ecruited from within and outside the targeted community, to work along with churches, community agencies, and ommunity volunteers. The goal will be to support existing community institutions, organize new ones, and increase the ommunity's assets in the areas of youth employment and entrepreneurship, political participation, health, literacy, nath and science skills, and alternative sentencing for youth offenders.

The Ten Point Coalition will be working over the summer with churches and community agencies in the targeted ommunities to ensure that the efforts begun by the students will be continued after Freedom Summer has ended.

Organizational Development

The Coalition is working along with Interaction Associates (Cambridge, MA) to do the organizational and strategic planning necessary for controlled expansion. We have been holding and will continue to hold meetings and workshops to ensure a solid organizational foundation and to broaden the participation of lay people, youth, and women in the structure and decision-making of the Coalition.

Results

Member Churches

To date member churches, singly or in collaboration, have implemented working models for nine of the ten points listed, including:

- Male and female gang intervention programs (4 churches),
- Court advocacy and mentoring programs (6 churches),
- Street outreach programs (7 churches),
- Youth entrepreneurship and job referral programs (2 churches),
- Urban-suburban and downtown-to-inner-city church linkages (3 churches),
- Neighborhood crime watch support (2 churches),
- Health center partnerships (4 churches),
- Brotherhoods/sisterhoods (5 churches),
- Court-based literacy-through-history projects (1 church).

Endorsements

The Coalition recently received the endorsement of the Archdiocese of Boston, which is seeking to involve as many of its more than 400 churches as possible in establishing or supporting Ten Point programs. The Archdiocese will focus particularly on street outreach, neighborhood crime watches, and the development of brotherhoods and sisterhoods.

The Religious Task Force of the Boston Coalition has agreed to support the Coalition by seeking funding for a full-time person to provide technical assistance for churches in implementing programs and developing resources to support those programs. This person will work directly with and report to the Outreach Coordinator.

For further information, contact:

The Reverend Jeffrey L. Brown (617-354-6686)
The Reverend Ray A. Hammond (617-524-4331)
The Reverend Samuel C. Wood (617-661-8037)

July 1, 1994

By participating in the Alliance, students are able to see themselves and others in a different way; they develop insights which negate violence. Here are some excerpts from students' evaluations:

I liked the mock trial -- it helped me understand how the laws protect and don't protect my civil rights.

I was touched by the speaker and the video and realized how sheltered I have been.

It helps with identification and dismissed feelings of being the only group working on the problem.

I liked how it explained that other people had problems in their everyday life that were serious.

This was a new experience for me, and I was glad to have a chance to talk about my problems.

The small groups were helpful because everyone got a chance to share their suggestions on the problems we must face.

It made me realize how we categorize people and how I want to categorize myself.

I found it helpful -- I would like to do the whole exercise again.

I liked meeting new people.

The Alliance's programs are described by many students as the most dynamic experiences they have ever had. One student who established an Alliance chapter in her high school four years ago, now writes a year after graduating:

The Alliance was an incredible experience for me. Before becoming involved, I was angered at the way students treated others who were different, at the way I was expected to act by my peers and teachers as a girl. But I didn't really feel like I could do anything besides speak up as an individual.

By forming a student group to combat hatred and racism, I was able to share my feelings with others and hear about experiences which normally just don't get talked about in school. But moreover, I realized that I, and others like me, could have an impact on those students whose hatreds and ignorance were making the school an uncomfortable and divisive place. Later I was able to share my experiences and enthusiasm for the program by helping students from other schools form their own Alliance chapters.

Before students will act to combat the hatred and violence which is tearing their communities apart, they must realize the power they hold within themselves. In the words of one civil rights leader who has influenced the Alliance:

Everywhere we turn the central role of young people is obvious, and we are certainly compelled to ask important questions about why young people in Nashville, Birmingham, Atlanta, and later in Prague and Leipzig took such responsibility for the future of their people, their nations.... This is a powerful heritage, one filled with questions for reflection, discussion, and action. It is a heritage each new generation needs to know, perhaps to lay claim as a source of power, as a path toward the discovery of its own largest possibilities.

- Vincent Harding

For more information:
MSAAR&V
Office of Norfolk County D.A.
10 Granite St.
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MASSACHUSETTS STUDENT ALLIANCE AGAINST RACISM & VIOLENCE

Established in 1988
by
Norfolk County
District Attorney
William D. Delahunt

MASSACHUSETTS STUDENT ALLIANCE AGAINST RACISM & VIOLENCE

The Massachusetts Student Alliance Against Racism & Violence ("the Alliance") was established in 1988 as part of the Civil Rights Unit of Norfolk County District Attorney William D. Delahunt's Office. Dedicated to promoting peace and understanding among young people across the Commonwealth, the Alliance has also spawned a sister organization in southern California. The Alliance builds a sense of self esteem and empowerment in young people, demonstrating that the efforts of even one person can make a difference. Alliance participants gain leadership skills which help them actively unify their schools and communities in efforts to prevent violence.

A primary objective of the Alliance is to reduce violent crime by changing the attitudes and behaviors which cause it. Our approach undermines the incidence of hate crimes, sexual assault, dating and domestic violence, drug related crimes, and gang violence which often result from racism, sexism, homophobia, or stereotyping. The Alliance curriculum teaches mutual respect and understanding, and gives valuable insights into issues of diversity and conflict resolution through the following activities:

Local Chapters

Although the Alliance serves students throughout the state, it does most of its work in individual school communities. One of the goals of the Alliance is the establishment of affiliated youth groups in high schools (and junior high schools) across the state. Breaking down stereotypes and counteracting the often prevailing forces of violence are ideals best promoted through constant reinforcement, and we believe the presence of Alliance chapters has made a significant difference in more than twenty schools.

Youth Empowerment/Leadership Training

The activities that the Alliance pursues aim to give student participants a sense of what they can achieve through individual and collective action among their peers. The Alliance not only helps students come to terms with their own hatreds and biases, but it also demonstrates to students that they can combat those attitudes throughout their school communities and help prevent violence from being an everyday occurrence. Thus, everyone involved in the Alliance learns how to be a leader in his or her school and community. Students can achieve leadership positions as officers in their own chapters and as members of the Student Advisory Board, which determines the operation of the Alliance as a whole.

Community Legal Education

The Alliance educates students about the civil rights guaranteed to all citizens by the Constitution and state statutes through a program of mock trials. This element of the program not only opens students eyes to rights which they often did not know they possessed, but it also raises awareness about their limits -- the laws which prevent infringement of others rights. Over the last year, the Alliance has also instituted mock trials dealing with the issues of dating and domestic violence. These trials educate students about the rights of victims and the resources of the criminal justice system of which many students are unaware.

Community Training for Teachers, Administrators, and Parents

The Alliance, in partnership with the Massachusetts Federation of Teachers, the Massachusetts Teachers Association, and the Boston Area Educators for Social Responsibility, hopes to provide training to two teachers from each school which has an Alliance chapter. This training is crucial to ensure that the program will continue to exist in each one of these institutions for years to come.

Living History Courses

In partnership with the Massachusetts Civil Liberties Union Foundation, the Alliance coordinates a living history course called Project HIP-HOP (*Highways Into the Past -- History, Organizing, and Power)*. This educational initiative involves taking a group of students from the Greater Boston area on a tour through the South to visit key sites of the civil rights movement of the 1950's and 1960's. Participants meet with veterans of the movement and young people like themselves who are currently organizing to combat racism in their schools and communities.

Annual Conferences

Each year, the Alliance coordinates a conference involving all of its affiliates in a day-long program that gives students from across the state an opportunity to learn with and from each other. The conference features student and adult speakers, interactive workshops, mock trials, small group support groups, and arts performances.

The Alliance Theater Project

Our Theater Project is an initiative in which young people use improvisation, rap, music, poetry, and dance to speak to adults and other young people in the community. The performances reveal the ways in which violence affects everyone's lives.

SCOTT HARSHBARGER
ATTORNEY GENERAL

SCORE

Student Conflict Resolution Experts

Massachusetts Attorney General, Scott Harshbarger, set as one of the priorities of his office the reduction of urban violence in all its various forms. One of the most critical problems facing society today is the level of violence in our schools. SCORE* (Student Conflict Resolution Experts) is a program created by the Office of the Attorney General (OAG) which seeks to reduce violence in urban schools and to bring hope for a brighter future to our youth.

SCORE is a program that provides grants for the development of school mediation programs using trained student mediators to resolve violent and potentially violent conflict among their peers. Several years ago, the OAG began two pilot SCORE programs, and today it funds 26 programs - 17 high school and 9 middle school - in 14 communities in Massachusetts: Boston, Springfield, Worcester, Somerville, Lowell, Medford, Haverhill, Malden, Taunton, Dartmouth, Fall River, Lynn, Fitchburg, Pittsfield and New Bedford.

The model for SCORE is unique. The OAG gives SCORE grants to community mediation programs and requires that matching funds be raised. All the funds are used to hire a full-time SCORE Coordinator who works in the targeted school to develop and run the mediation program. The Coordinator's responsibilities include outreach for referrals, recruiting and training mediators, scheduling and supervising the mediation sessions and following up on agreements. Typical mediations involve fights, threats, harassment and rumors among students who know one another. (See Mediation Anecdotes.) The OAG collects data from all the programs and provides training and technical assistance as needed.

Student mediators are chosen because they have shown enthusiasm for resolving conflicts in a non-violent way. An effort is made to recruit students who represent a true cross-section of the student body including negative and positive leaders. To date, over 600 students have been trained as mediators.

The training for the students and teachers is conducted by experienced trainers from the OAG and community mediation programs. The 20-25 hour training program involves role plays, skill-building exercises and games which are all designed to provide an enjoyable if somewhat intense learning experience. Through this training in the mediation process, students learn the value of listening, using neutral language, not taking sides, and looking beneath the surface for the real causes of conflict.

*SCORE is a program sponsored by the Massachusetts Attorney General and is not affiliated with any private business enterprise.

SCORE
Student Conflict Resolution Experts

MEDIATION:
A Creative Way to Resolve Conflict

Mediation:

-voluntary
-confidential
-a process where disputing students resolve their differences and arrive at a mutually satisfying solution with the help of peer "mediators".

Mediators:

-impartial
-neutral
-non-judgmental
-no blaming
-do not make suggestions
-do not decide the solution

Process: -2 peer mediators sit with the disputing students, in a series of group and individual "sessions", usually in one mediation meeting and listen to each side.

Goal: -for the parties to create a jointly developed, written solution that each person feels is **fair, balanced, and realistic**

MEDIATION JOBS AND SKILLS

Building Trust
1. Don't take sides
2. Listen carefully
3. Use neutral language
4. Be honest
5. Be respectful
6. Show understanding

Information to Collect
1. What happened
2. Why it happened
3. What people need
4. How people know each other
5. Positive things that are said
6. What people are willing to do
7. What people have agreed to

Information to Share
1. Positive things
2. How people feel
3. Feelings people express
4. Signs of flexibility

Problem-Solving
1. Encourage flexibility; ask people to keep an open mind.
2. Brainstorm many solutions, instead of getting stuck on one solution.
3. As "what if" questions; look for trade offs. "If she'll do this, will you do that?"
4. Do some reality testing if what people say does not make sense; help people look at the consequences of not reaching agreement.

WHAT TO LISTEN FOR

BACKGROUND

* What Happened:
  - the 'stories'

* What Is Wanted:
  - issues
  - underlying interests
  - solutions

* Why It Happened:
  - underlying issues
    - misunderstandings
  - contributing emotions
    - anger
    - fear
    - embarrassment
    - frustration
    - pride
    - anxiety

* Who Are The Players:
  - personalities
  - motivations
  - relationship

SETTLEMENT CLUES

* For Strategizing: and/or
  - areas of flexibility
  - willingness to move
  - areas of common interest
  - areas of agreement

* For Transmittal:
  Information that will:
  - diffuse emotions
  - explain reasons behind demands
  - correct misunderstandings
  - explain extenuating circumstances
  - express positive feelings

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* Use What You Hear To Help You Decide:
  - Who to see
  - What to say or do it
  - How to say or do it
  - When to do it

Prepared by the Massachusetts Department of the Attorney General, Face-to-Face Mediation Program

TEENS AGAINST GANG VIOLENCE PLEGDE

We pledge and promise to work together with the members of our family, school, community and city to eliminate violence in all it's forms, including racism, sexism, homophobia, guns, drugs,crime and fighting.

We commit ourself to nonviolence by:

1. Refusing to participate in any form of physical or emotional violence.

2. Modeling language and behavior that is non - biased and inclusive of all persons regardless of race, gender, ethnicity, disabilities, sexual orientation, or religion.

3. Educating ourself about the rich cultural diversity which exists in our society and seeking out opportunities to participate with culturally divetse groups.

4. Intervening to let others know that we will not tolerate jokes, comments,slurs or actions that demean any person or group.

5. Joining with other people in efforts to combat prejudice and violence.

6. Sharing this pledge with a friend.

We pledge to
Reject hate and embrace love
Serve and care for others

Teens Against Gang Violence, Inc.
2 Moody Street
Boston, MA 02124

Teens Against Gang Violence: In Hard Times, Our Young People Are the Signs of Hope

Ulric Johnson, 36, directs the Gang/Drug Prevention Program in Mattapan, which is sponsored by Boston's Department of Health and Hospitals. Its Teens Against Gang Violence project (TAGV) trains young people to be peer leaders. Johnson works with the Cambridge Youth Peace & Justice Corps, leads workshops on nonviolence, and runs a consulting group, Cross-Cultural Consultation (617/986-6150). Info on TAGV: 534-2000, ext. 439. He spoke with Peacework last month after a particularly violent week in Boston and shortly before the first anniversary of the death of 15-year-old Louis Brown, a TAGV member shot while walking to the group's Christmas party.

We see the solution to violence as appreciating differences, but then we look at something like Proposition 187. Saying an immigrant is going to be denied preventive medicine and only have access to the medical system in emergencies is a form of homicide. It's institutional violence, and the frightening thing is not just that it passed overwhelmingly, but that Gov. Weld and a lot of other people are looking at it as a test case. I'm an immigrant, from Trinidad originally. Most of the kids in our program are immigrants, and in light of the fact that we're all immigrants, if the Native Americans had had an immigration policy like Prop. 187, the Pilgrims wouldn't even have been able to land.

I try to help the young people make sense out of the nonsense that comes at them from every angle to the point where they almost think they're schizophrenic. How do you keep your own equilibrium in a world where violence gets promoted, and indeed celebrated?

Looking at it from the perspective of addictions theory, this country is addicted to hardcore violence. Where does the violence come from? It's learned, and it is very difficult to unlearn when you are constantly bombarded with images of violence. In our discussions, we look at the relationship between international violence, institutional violence, domestic violence, and interpersonal violence, because they're all connected.

We've discussed it in terms of the November elections, which were the bloodiest in memory as far as back-stabbing and negativity. We looked at the privilege of politicians spending $20 million or $14 million or $6 million to get a job. Are those people who are able to relate to the oppressed? The youth see all these contradictions in the news.

They look at what happened in South Carolina, with the mother who drowned her children, and the readiness to—as we say—blame a nigger, as was done in the Stuart case in Boston. Part of what we discuss is the issue of how do I maintain my sense of pride, my sense of dignity, within this whole climate of sanctioned violence.

And you have *The Bell Curve*, which postulates low intelligence among blacks and is being used to try to rationalize taking away welfare and affirmative action. We talk about how it feels to hear them discuss our intelligence on national television as if we're inferior. You're dealing with kids who already have low self-esteem, or low group esteem, or low intellectual achievement because they're tracked in school or because they're immigrants who enter the system speaking a different language and they get labeled as learning-disabled.

We look at the relationship between these events and the phenomenon of kids joining gangs because the schools treat them as if they are mentally disturbed or handicapped. Gangs treat them as having some intelligence and give them a way of exercising their individuality as well as their talents and skills. I predict increasing gang activity. We haven't even seen the tip of the iceberg of the escalation of violence because, under the new House and Senate, more of the very limited services for inner city youth or poor kids are going to be taken away. Inevitably, we're going to see the survival instinct at work.

I plan to spend more of my time helping youth of color prepare themselves for what is coming. These kids have so much resiliency, but I think they don't understand that they will have to apply that resiliency much more consistently as more of the support system is lost and programs are cut.

On the streets I see a sense of hopelessness in parents and a sense of confusion, fear, and sadness among kids. How that gets translated in talking to kids and parents is anger—and anger without a context can lead to more violence. We have to learn a different approach: how to deal with violence without violence.

I see people, even black community leaders, who play politics with peoples' lives. Politicians have short memories, and they often deny reality because they are looking to protect their power or get re-elected. They are not looking at long-term solutions. They are looking for a quick-fix that will fly with their constituents.

So we've got to do for ourselves, not wait for politicians to take care of things. We need to go back to grassroots organizing. We need to do what the gangs are doing, but in a positive sense. Teens Against Gang Violence see themselves as a gang because the definition of a gang is a group of people who meet regularly around a common purpose. We describe ourselves as a nonviolent gang. We are organized around nonviolence. We help community agencies and other youths develop skills at the grassroots level to deal with violence.

I believe communities need to come together and form a posse, in a positive sense, looking at each others' backs to protect each other and develop a code of conduct for the community. Gangs will only exist in a community if the community allows them to exist. The community can have a code of conduct that says there are certain types of gangs we will allow here, there are others we will not allow.

Most communities haven't become organized against gangs. They operate like negative gangs, using race as a card, playing the homophobic card, the gender card, the age card, the class card, using all the -isms to divide us. Gangs are using those same issues to unify themselves. They're trying to recreate something they are not finding in the community—the sense of solidarity, of family.

The majority of the gangs are in the urban community, but they're also in the suburban and rural communities, it just doesn't get that much attention. I'm dealing with some white gangs who are pissed off that the media focuses on just the gangs of color. Boston has an estimated 60 gangs, about ten of which we call hardcore gangs, and the others are more in reaction to them.

Gangs serve as a way to rationalize the elimination of people, by taking an incident out of context and making it a gang incident, or responding to it in a way that stigmatizes the community. If kids end up on the streets and are treated like gang members, the next thing is they *become* gang members, and then you'll have a real gang problem.

We're saying that if you get kids together and give them the sense of group identity, you channel that energy in a positive direction and kids will grab onto it. We're starting Children Against Gang Violence groups for the siblings of the TAGV's, and Parents Against Gang

Members of Teens Against Gang Violence at meeting last month, with portrait of slain group member Louis Brown. Photo: Ulric Johnson

Violence, too. TAGV started off trying to address three myths: one, that all the kids in Roxbury, Dorchester, and Mattapan are in gangs; two, that if you are a black kid you have to be in a violent gang in order to survive in those areas; and three, that kids are the problem, not the solution. We have 14 kids who are in school, A and B students, who believe in putting their lives on the line to be part of the solution. We wear black hoods to get rid of the stereotype that all kids in hoods are gang members. We chose black to reclaim the fact that black is positive. The TAGV's are looked up to by other kids, even gang members. Hardcore gang members, wannabes, and gottabes all recognize the worth of what they're doing.

I want to emphasize that there are a lot of other programs in Boston doing strong, positive things with young people. We adults have a good record of being hypocrites and contradictory because we have become hardened in our denial and ignorance and cynicism. That's why I believe the solutions lie with kids, who are not as habituated to cynicism, whereas many adults displace responsibility, blaming politicians, parents, society, and then ending up blaming God.

Violence is addictive. We feed a child heavy doses of violence from the time they're born. Violence is based on the ideology of win/lose, of "better than," of the zero sum theory that there's not enough to go around. If you bombard a child with that ideology, they become addicted to it. To try to use that ideology to correct the violence that comes from that ideology just doesn't work. Kids are not as hooked on that ideology, so if you intervene early and give them the experience of a win/win, cooperative, we're-all-valuable ideology, they'll buy into it.

One of the key signs of addiction is denial. Adults are in denial of their addiction to violence. They use violence to maintain and deal with violence because it's the only thing they believe they know. Young people are more receptive to other forms of behavior. We need to start at a very early age, with parents and small kids, showing them nonviolent ways to live. We have proof that it works. Martin Luther King lived that way. Nelson Mandela is doing it.

Conflict itself is not bad. Conflict just means two opposing ideas. If you start with a win/win ideology, you can say—wait a minute, we are in conflict here but we can come out with something better where we both win. Then the tendency to want to hurt the other party isn't there.

People are scared. This approach looks so difficult. You're asking them to cross ethnic lines, geographic lines, to say let's get together and work this out. That's unfamiliar ground, because they have never experienced a community where everyone was treated equally. We remember that Martin got killed for being nonviolent, Gandhi got killed, Christ got killed. To trust someone requires a degree of risk. There is vulnerability, giving up the illusion of security. The idea of crossing boundaries and working with the NAACP, working with youth, dealing with the Nation of Islam, and crossing other boundaries...we tend to think, what am I going to lose, instead of what am I going to gain?

I do think there are some hopeful signs. I think (Boston Mayor Tom) Menino is saying some of the right things. I think Clinton has been saying some of the right things. Based on the elections, people are saying, "I want change, I want leadership, I want a role model taking risks." I think the kids are looking for that too, and sadly they're finding it among gang leaders. They're not seeing role models in adults, or among parents who will take risks, who'll say: "All right, my son, who died, was a victim. I'm grieving about that, but we need to pray for the perpetrator as well as for my son."

Kids need jobs, because jobs give you a sense of purpose and identity. We're very good at talking our talk, but the kids are saying we need to walk our talk. The kids are saying that we adults need to stop being contradictory, and that if we want to preach about nonviolence we need to be nonviolent ourselves—verbally, physically, and emotionally. I think the number one thing we need to do as adults is be patient. There needs to be a consistent exposure to the message of peace and justice, to counter the violent messages.

My mom was a big role model for me, and my grandmother. And being raised in Trinidad and Tobago, the sense of community was very powerful. My grandmother is 96. She had 16 children, and she did not raise those children alone, she had the community to help. I saw my mother put her life on the line in intervening in some violent incidents, and at the time I thought she was crazy, but I now realize that she was not. I was watching her model nonviolence. The other major influence for me was my martial arts sensei, Mr. Brewster, telling me that to deal with violence you don't have to use physical violence, that a sense of pride in yourself is also important. I studied King, and Nelson and Winnie Mandela, and I read the autobiography of Malcolm X to see what violence could do to a person. Hate creates hate, yet a person can go through a transformation. It is possible. South Africa symbolizes the changes a society can go through.

I will always remember the night Louis Brown got killed. A lot of people were concerned that because he died on his way here the young people would drop out of the program. So I asked them: Do you want to give up the program? And they looked at me with a sense of amazement and responded: "This is even more of a reason why we need to do what we're doing." Hearing that from the kids was really inspiring, and they continue to show up here every Monday, rain or shine or snow, to work on these issues. They themselves are the hopeful signs. ☮

HANDOUT 6-1

GUIDELINES FOR INTERRUPTING GANG VIOLENCE IN YOUR COMMUNITY/SCHOOL

1. CHALLENGE GANG VIOLENCE.

Ignoring it will not make it go away and silence sends the message that you are in agreement with such behaviors and attitudes. Do not let a gang incident pass without saying something or telling someone. You may not always speak at that time and place of the incident if to do so would jeopardize your own or others safety, but it must be brought up at soon as possible. Tell someone that you trust, such as an adult, teacher, parent,counselor,or friend. Your goal is to stop or prevent the violence from happening again.

2. EXPECT TENSION AND CONFLICT, AND LEARN TO MANAGE IT.

In certain situations, conflict and tension may be unavoidable. Remember that tension and conflict can be positive forces that foster growth and change. It takes a courageous person to overcome their fears, and do the right thing, when others would prefer you didn't.

3. BE AWARE OF YOUR OWN ATTITUDES, STEREOTYPES AND EXPECTATIONS OF GANGS.

We have all been told stories about gangs and what they are, what they will do, that we should fear them. None of us remains untouched by the media messages.

4. PROVIDE ACCURATE INFORMATION ABOUT GANGS.

Always challenge the myths about gang membership. Take responsibility for educating yourself about gangs and about the gangs in your school, neighborhood, and surrounding community.

5. DISTINGUISH THE DIFFERENCE BETWEEN A GROUP AND A GANG.

A group is three or more individuals that gather together for a common purpose. A gang is any group of people that gather for the primary purpose of participating in criminal or violent behaviors.

6. BE AWARE OF YOUR OWN HESITANCIES TO GET INVOLVED IN INTERRUPTING A GANG/VIOLENT SITUATION.

Confront your own fears. Be honest with yourself about your feelings. Set your priorities and take action. Be responsable. Remember that gang/violence affects all of us, and it is every ones business.

7. ALWAYS TRY TO PROJECT A FEELING OF UNDERSTANDING, LOVE AND FORGIVENESS.

When an incident occurs, without preaching, state how you feel and firmly address the hurtful behaviors or attitudes while supporting the dignity of the individual's involved.

8. BE NON-JUDGMENTAL; BUT ALWAYS KNOW YOUR BOTTOM LINE.

Issues of human dignity, justice and safety are non-negotiable. Gangs are a danger to the survival of any community where they exist. No community can change unless it survives, and it cannot survive unless we change.

9. ALWAYS TRY TO BE A ROLE MODEL.

Always practice non-violence, and reflect anti-racist, multicultural values in all aspects of your behavior, especially in your relationship with youth.

10. WORK COLLECTIVELY WITH OTHERS. ORGANIZE,AND SUPPORT EFFORTS.
that challenge violence in all its forms. Gang violence won't be reduce in a day or by one individual or program. Peace and justice is a long term struggle and it's easy to get discouraged. Violence can only be prevented when we all work together - youths,adults, and communities.

Adapted by Ulric Johnson from "Guidelines for Challenging Racism and Other Forms of Oppression", by Patti DeRosa, Cross Cultural Consultation, 28 S. Main Street #177, Randolph, MA 02368.

Chapter 1

Interpersonal Violence Among Youth

The story was alarming, but so much a part of the city's daily life that it warranted only a small write-up on page 23 of the next morning's edition of *The Boston Globe*: on January 25, 1994, a Charlestown High School junior was shot and wounded in the left thigh near the back steps of Boston Latin Academy, where he had planned on attending a citywide recycling program for special-needs students.

Authorities were not aware of a motive for the shooting. According to witnesses, however, the assailant had said to his victim, "You're from Academy," before shooting the teenager with a small-caliber handgun. Sources told the reporter that the assailant was referring to the Academy Homes housing development near the Roxbury-Jamaica Plain line.

Unfortunately, such violence is not a rare event in the Boston schools. On December 20, 1993, for example, a student at Madison Park High School in Roxbury was shot as he walked across the school's athletic field around 7:45 that morning.[1]

In a Nation that once thought of high school, with its football games and proms, as a time of fun, even as a time of innocence, the specter of teens carrying revolvers and knives to school has struck a new note of alarm among a public that otherwise seems inured to the violence that surrounds it.

There is an obvious and immediate need to prevent students from bringing weapons to school, which can be attempted through a variety of measures, including strict disciplinary codes and the use of metal detectors and locker checks.[2] More difficult to accomplish, however, is a change in the general climate of violence that prompts many students to carry a weapon for self-protection, despite the dangers that decision brings.[3]

The Numbers Behind the Story

The United States is a violent Nation. Homicide is the 11th leading cause of death in the United States, with an estimated 23,760 murders in 1992.[4] As a cause of years of potential life lost before age 65, homicide ranks fourth.[5] Nonfatal assaults are an equally important problem. For every homicide, there are an estimated 100 assaults;[6] many resulting in serious injury that requires hospitalization.[7]

Violence is an especially severe problem among youth. According to data from the FBI's Uniform Crime Reports, more than 11,000 persons died in the United States between 1980 and 1989 as a result of homicides committed by high school-aged youth who used a weapon of some type. Firearm-related homicides accounted for more than 65 percent of these fatalities.[8]

Homicide is now the leading cause of death for young African-American men ages 15–34, with a homicide rate ranging between 5 and 10 times higher than for white men. Over a lifetime, the risk of death from homicide is 1 in 28 for African-American men, compared to 1 in 164 for white men.[9] Some studies suggest that it is the lower socioeconomic status of African-Americans that accounts for this difference.[10] Latino youth have a homicide rate lower than that of African-Americans but much higher than that of whites.[11]

These rates are accelerating: for African-American males between the ages of 15 and 19, the rate of homicides involving firearms more than doubled between 1984 and 1988.[12] In some cities, the news is even worse. In Detroit, for example, the homicide rate for African-American males ages 15–18 quadrupled between 1987 and 1988.[13]

The latest health objectives for the Nation, outlined by the U.S. Public Health Service in *Healthy People 2000: National Health Promotion and Disease Prevention Objectives*, include several related to assaultive violence, thus defining interpersonal violence as an important threat to public health.[14] These objectives are ambitious, but even if they were achieved, the United States would still remain among the most violent nations on earth:

Excerpted from:
DeJong, William, Ph.D. *Preventing Interpersonal Violence Among Youth.* Washington, D.C.: National Institute of Justice, 1994.

- Reduce homicides to no more than 7.2 per 100,000 people. The age-adjusted rate in 1987 was 8.5 per 100,000, which is roughly twice the rate of Spain, the industrialized nation with the next highest homicide rate.[15]

- Reduce assaultive injuries among people age 12 and older to no more than 10 per 1,000 people, compared to the 1986 rate of 11.1 per 100,000.

Healthy People 2000 also includes the objective of reducing by 20 percent the incidence of physical fighting among adolescents ages 14–17. Fighting among acquaintances is the immediate antecedent cause for many of the homicides that occur in this age group.[16]

A Culture of Violence

If we are to reduce violence among American youth, then first we must learn what they say about the anger and violence in their lives. What emerges, unfortunately, is an alarming picture of young people caught up in a culture of violence—a system of beliefs, attitudes, expectations, and behavior that seems pervasive, entrenched, and self-perpetuating.

The data reported here come from a study conducted in 1987 to field-test and evaluate a violence prevention curriculum for high school students taught by regular classroom teachers. (See chapter 4.) A total of 815 students from nine high schools across the United States completed a pretest questionnaire as part of this evaluation.[17] Two-thirds were in 10th grade, with 85.0 percent between 15 and 17 years old. Most were either African-American (57.6 percent) or Latino (25.3 percent). The students were almost evenly split among males (51.4 percent) and females (48.6 percent). Results are reported separately for males and females whenever a gender difference is statistically significant.

By their own report, these high school students live in an environment in which the threat of violence is a day-to-day reality. Consider these findings:

- Fully 9.3 percent of the students said that, within the last month, they had been physically attacked and hurt while at school. Of these, 59.2 percent, or 5.5 percent of the total sample, said they had been hurt badly enough to have seen a doctor.[18]

- More than half of the students reported that they had been in a physical fight with someone their own age during the past six months (males 61.0 percent, females 44.7 percent). Approximately 1 in 10 (males 12.0 percent. females 7.6 percent) said that they had been in a fight during the past week.

- Fully 38.7 percent of the students (males 45.7 percent, females 31.6 percent) said that, during the past week, they had been in a situation where they might have gotten into a fight. Most often, this incident involved a friend (23.9 percent), a family member (14.1 percent), or someone else they knew (30.3 percent). Males (17.1 percent) were more likely than females (7.1 percent) to report a situation involving a stranger.

- Adults were targets of aggression too: 13.7 percent of the students said that, during the past six months, they had hit a parent or guardian, and 12.9 percent said they had hit or pushed a teacher or other adult at school (males 17.9 percent, females 8.3 percent). It should be noted that, according to the National School Safety Center (NSSC), 5,200 U.S. teachers are attacked each month.[19]

This pervasive violence makes many students afraid, even at school. When asked if they had stayed home during the past month because someone might hurt or bother them at school, 6.4 percent of the students in the evaluation study said that they had, a figure roughly comparable to earlier surveys.[20] They have good reason to be afraid. Each month, says the NSSC, about 282,000 students are physically attacked in America's secondary schools.[21]

Readiness To Use Violence

Feeding this dangerous climate is a readiness to use violence as a means of resolving interpersonal conflict. This readiness is reflected in the students' widespread agreement with attitude and belief statements that support the use of violence, as shown in figure 1.1. At the same time, when presented with statements that endorse nonviolence, a disturbing percentage of students chose to reject them, as shown in figure 1.2.

The survey also included a set of questions that asked students to say how a fictitious boy named Neil should respond to various conflicts involving other people. For each scenario, the students could choose from among five response alternatives, some of them violent or provocative, the others nonviolent.

Clearly, the majority of students chose a nonviolent alternative, but for too many of these students, violence was the option of first resort. To illustrate, consider this scenario: "A guy Neil hardly knows tells the principal that Neil has been

Figure 1.1

Percentage of High School Students in Agreement With Attitude and Belief Statements That Support the Use of Violence

Attitude/Belief Statement	Percentage Agreeing[a]
If a girl sees someone flirting with her boyfriend, she should fight with her.	81.4%
It's okay to hit someone who hits you first.	73.9%
Sometimes it is necessary to fight with people who are rude or annoying.	48.6%[b]
If I'm challenged, I'm going to fight.	43.4%[c]
If someone steals from me, the best way to handle it is to beat the person up.	25.6%[d]

[a] Percentage of students indicating that they agreed or strongly agreed with the statement.

[b] Males (55.0%), females (42.0%).

[c] Males (52.1%), females (35.0%).

[d] Males (38.1%), females (12.8%).

selling drugs at school." In response, 4.5 percent said that Neil should "threaten him for telling lies" (males 6.8 percent, females 2.4 percent), and another 10.5 percent said Neil should "beat the guy up" (males 14.1 percent, females 7.1 percent).

In another example, "One of Neil's friends puts moves on his girl." While two-thirds of the students said that Neil should talk to his friend, 7.0 percent said that he should do the same thing to his friend's girlfriend (males 9.8 percent, females 3.9 percent), and 8.9 percent said he should fight (males 12.6 percent, females 5.2 percent).

Some students seemed oblivious to the dangers of a violent response, even if the incident involved a stranger. For example, another scenario read as follows: "Someone Neil doesn't know insults his mother." In response, 15.3 percent said that Neil should return the insult in kind (males 20.8 percent, females 9.6 percent), and 13.8 percent said that Neil should fight (males 18.0 percent, females, 9.6 percent).

In a final example, "A stranger Neil's age bumps into him on the street." In response, 7.7 percent said that Neil should "push back" (males 11.0 percent, females 4.4 percent). Even though other options allowed for the possibility that the "bump" was unintentional, too many students seemed to interpret it as a deliberate provocation.

Prevalence of Weapons

This widespread willingness to fight is made more dangerous by the prevalence of carrying weapons. As part of the same evaluation study, students were asked how often they had carried a hidden weapon (not counting a penknife) during the last six months. While 8.6 percent said they had done so once (males 10.1 percent, females 6.9 percent), fully 19.0 percent said they had done so more than once (males 28.0 percent, females 13.8 percent). When asked if they had carried a gun during the last six months, 8.8 percent of the students said they had done so once (males 14.1 percent, females 3.5

Figure 1.2

Percentage of High School Students in Disagreement With Attitude and Belief Statements That Support the Use of Nonviolence

Attitude/Belief Statement	Percentage Disagreeing[a]
If someone called me a bad name, I would ignore them or walk away.	37.8%[b]
I don't need to fight because there are other ways to deal with anger.	20.9%[c]
When you are so mad that you want to hurt someone, it's always best to find another way to handle your anger.	14.7%[d]

[a]Percentage of students indicating that they disagreed or strongly disagreed with the statement.

[b]Males (43.3%), females (32.2%).

[c]Males (26.9%), females (15.0%).

[d]Males (18.3%), females (11.1%).

percent), and 10.4 percent said they had done so more than once (males 15.9 percent, females 4.9 percent).

Similar findings emerged from a national survey conducted in 1990, which revealed that nearly 20 percent of all students in grades 9–12 reported they had carried a weapon at least once during the 30 days preceding the survey (CDC, 1991). Male students (31.5 percent) were more likely than female students (8.1 percent) to report having carried a weapon. Latino (41.1 percent) and African-American (39.4 percent) male students were more likely to report weapon carrying than were whites (28.6 percent). In general, knives or razors (55.2 percent) were carried more often than clubs (24.0 percent) or firearms (20.8 percent). Among African-Americans, however, those who carried a weapon most often carried a firearm (54.2 percent).[22]

Sustaining this life-threatening behavior is the illusion that carrying a weapon offers protection. For example, when asked if they would feel safer in a fight if they had a knife, 28.2 percent of the students (males 35.6 percent, females 20.5 percent) said they would.

Beliefs Supporting the Use of Violence

The use of violence to resolve conflict is undergirded by a system of beliefs about aggression and its role in resolving conflict. Misinformation about the nature of violence abounds among the students who participated in the evaluation study, as displayed in figure 1.3, which shows the percentage of students who missed key items in a true-false test about interpersonal violence. Because of this misinformation, many of these students are not aware of the true risk factors for homicide and assault.

The bottom line, say many students, is that violence works. Just over one-fourth (25.9 percent) agreed with the statement, "I can gain more from fighting than I can lose." Males (32.9 percent) were much more likely to agree than females (18.4 percent). Part of what they can gain is a reputation, as revealed by the students' agreement with the following two statements:

- If I refuse to fight, my friends will think I'm afraid" (agreement: total [44.1 percent], males [49.3 percent], females [38.6 percent]).

- "If I walked away from a fight, I'd be a coward" (agreement: total [25.3 percent], males [28.1 percent], females [22.4 percent]).

To reject violence, say many of these students, is to invite attack. Over half agreed (males 59.7 percent, females 52.4 percent) that "anyone who avoids fighting is going to get picked on even more."

Many students see violence as inevitable, as something over which they have no control, as indicated by their agreement with the following statements:

- "Sometimes there's nothing you can do to stay out of a fight" (agreement: total [70.4 percent], males [74.1 percent], females [66.5 percent]).
- "No matter what I do, sometimes I will have to fight" (agreement: total [60.6 percent], males [65.8 percent], females [54.7 percent]).

Even when presented with statements that imply personal control over the violence in their lives, a sizeable number of students rejected them, as shown in figure 1.4.

Many of the study participants put the responsibility for avoiding violence on others rather than themselves. Over one-fourth (26.1 percent) agreed that "if you're getting into a fight, it's up to the other person to find a way out of it," and 36.5 percent agreed that "keeping out of fights depends on other people." Why is violence seen to be beyond personal control? One answer is the role of anger, an emotion that many students believe to be uncontrollable. Fully 42.7 percent of the students agreed that "when you're really angry, there's no way you can control yourself."

The evaluation study also revealed that a sizeable number of these high school students have difficulty with anger and its management. Nearly half (48.9 percent) admitted, "I lose my temper easily," and over one-fourth of the students (25.2 percent) disagreed with the statement: "I keep an even temper most of the time." Chronic anger is a problem for many of the students; 30.6 percent admitted that they "carry a lot of grudges."

Generally, there were few differences between males and females for this set of questions about anger, with the exception of questions that asked about becoming angry after

Figure 1.3

Percentage of High School Students Giving Incorrect Responses to a True-False Test About Violence

Attitude/Belief Statement[a]	Percentage Answering Incorrectly
Half of all murder victims had alcohol in their bloodstream. (TRUE)	50.5%
Most murders happen because of racial tension. (FALSE)	38.0%[b]
More people are killed as a result of an argument than for any other reason. (TRUE)	35.3%[c]
Women are murdered more often than men. (FALSE)	34.5%[d]
In most murders, the killer and the victim know each other. (TRUE)	31.6%[•]

[a] The correct response is indicated in brackets.

[b] Males (34.0%), females (41.5%).

[c] Males (41.1%), females (29.7%).

[d] Males (29.6%), females (39.1%).

[•] Males (37.5%), females (25.8%).

Figure 1.4

Percentage of High School Students in Disagreement With Attitude and Belief Statements That Imply Personal Control Over Violence

Attitude/Belief Statement	Percentage Disagreeing[a]
When I get into a fight, it's my own fault.	78.1%[b]
If I mind my own business, I can stay out of fights.	31.1%[c]
I am confident in my ability to stay out of fights.	25.3%[d]
I can learn how to stay out of a fight.	24.7%
If you want to, you can always find a way to keep from fighting.	21.9%[•]

[a] Percentage of students indicating that they disagreed or strongly disagreed with the statement.

[b] Males (75.5%), females (80.7%).

[c] Males (36.4%), females (25.9%).

[d] Males (31.0%), females (19.8%).

[•] Males (27.7%), females (16.0%).

not getting one's way. For example, 44.8 percent of females agreed with the statement, "I get angry if I don't get my way," while only 32.8 percent of males did so.

Introduction to the Report

To decrease the level of violence among the Nation's young people, we must address the mythology that supports this culture of violence, while also demonstrating the value of nonviolent approaches to conflict resolution. The challenge is clear: we must convince young people of the wisdom of nonviolence, even though many of them believe that their everyday experience tells them that violence works.

Several new prevention programs have been started during the past decade to meet this challenge.[23] Many of these programs focus on teaching anger management and conflict resolution skills to youth, some beginning as early as elementary school. Other programs seek to increase contact between youth and appropriate role models through sports and recreation, remedial education, and mentoring programs. Often, it is police and other criminal justice professionals who have taken the lead in developing these programs.

Clearly, to change the climate of violence that pervades the Nation's cities; to change the attitudes, beliefs, and expectations that feed that climate; and to teach young people how to resolve conflict peacefully, *all* elements of the community must be involved. This especially includes police and other criminal justice professionals.

This report reviews current school, community, and mass media strategies; describes the most promising programs now in operation; and offers recommendations for how police and other criminal justice professionals can get involved. By introducing the basic concepts and strategies of violence prevention, the report is designed to encourage even more criminal justice professionals to join this vital effort.

The programs described in this report provide an overview of the range of strategies now being used to combat youth

violence. Following a nationwide search to identify programs, six were selected for three-day site visits:

School-Based Programs

Second Step (Seattle, Washington)

Resolving Conflict Creatively Program (New York, New York)

Barron Assessment Counseling Center (Boston, Massachusetts)

Community-Based Programs

Five Point Violence Prevention Program (Columbia, South Carolina)

Violence Prevention Project (Boston, Massachusetts)

Youth at Risk Program (San Francisco, California)

Based on what was learned at these site visits, the Resolving Conflict Creatively Program (RCCP), a comprehensive school-based program, and the Violence Prevention Project (VPP), a broad-based community project, were chosen for presentation. (Second Step and the Youth at Risk Program are described in appendix B and C, respectively.)

Selection of these two programs was influenced by several factors, including (1) the uniqueness and comprehensiveness of each program's approach, (2) its basis in theory, (3) its setting, and (4) the quality of its evaluation. The latter criterion was key, for, in general, the field of violence prevention suffers from a dearth of sound outcome evaluations.[24]

The report is organized as follows:

Chapter 2 presents a theoretical framework for understanding interpersonal violence. There is a broad consensus among social scientists that violence is a learned behavior, making it neither inevitable nor unavoidable. Programs focused on violence reduction must teach people new ways of channeling their anger into constructive, nonviolent responses to conflict.

Chapter 3 introduces school-based programs through New York City's Resolving Conflict Creatively Program (RCCP). RCCP is a school-based conflict resolution and mediation program jointly sponsored by the New York City Public Schools and Educators for Social Responsibility. Currently, this K–12 program is in place in 150 elementary, junior high, and high schools in the city, with 3,000 teachers and 70,000 students participating.

Chapter 4 introduces community-based programs through the Violence Prevention Project (VPP) in Boston. The VPP is an outreach and education project run by the city's Department of Health and Hospitals. Having completed a three-year pilot program, the project now has a citywide focus and is an integral part of the Mayor's Safe Neighborhood Plan. A key activity is teaching staff from community agencies that work with youth (such as multiservice centers, youth clubs, recreation programs, and churches) how to teach lessons from a high school violence prevention curriculum.

Chapter 5 describes current mass media strategies for violence prevention, most of which have been designed to increase public awareness of the problem and to support various community-based prevention programs. Public service announcements are only one option. Other ways to use the mass media include intensive station-sponsored campaigns, documentaries and other special programming, being a source to news reporters, and lobbying the entertainment community. Evidence is presented to refute the commonly held belief that, when it comes to entertainment, violence sells.

Chapter 6 offers recommendations for future program development, with a focus on how police and criminal justice professionals can join the violence prevention movement. The idea that criminal justice professionals should be involved in school, community, and mass media programs for violence prevention is consistent with contemporary notions of problem-oriented and community policing. There is much work to be done in the years ahead. By adopting a broad-based perspective on violence prevention, criminal justice professionals can assume a leadership position in this emerging field.

Endnotes

1. J. Hart, "Teenager shot near Boston Latin Academy," The Boston Globe (January 26, 1994): 23.

2. D. Northrop and K. Hamrick, Weapons and Minority Youth Violence, (Newton, MA: Education Development Center, 1990).

3. D. Ribadeneira, "Police Step Gingerly on Schools' Front Lines," The Boston Globe (April 6, 1992): 21,23.

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Office of Justice Programs
National Institute of Justice

National Institute of Justice Update

Jeremy Travis, Director

January 1995

Weapon-Related Victimization in Selected Inner-City High School Samples

Over 2 million teenagers are the victims of violent crime annually, and numerous studies have pointed to the increased possession of weapons by adolescents as part of the problem. How high is the level of victimization among students in inner-city high schools? What influences their becoming victims of firearms, knives, and other weapons? A study funded by the National Institute of Justice, *Weapon-Related Victimization in Selected Inner-City High School Samples*, found that one in five inner-city students surveyed (one in three males) had been shot at, stabbed, or otherwise injured with a weapon at or in transit to or from school in the past few years. The dangers of the environment outside of school were more obviously related to the rate of adolescent victimization than the environment inside the school.

Study design

Findings from this study were derived from responses to surveys completed by 1,591 students (758 males and 833 females) in 10 inner-city public high schools in California, Louisiana, New Jersey, and Illinois. Schools selected for study were identified by local school board officials as inner-city schools that had experienced firearms incidents in the recent past and whose students likely encountered gun-related violence (as victims, perpetrators, or bystanders) out of school. Participation in the survey was voluntary and anonymous.

It should be noted that because the research sites were not based on probability samples and because student participation was voluntary, the findings of this study do not necessarily apply to other settings and populations.

Student profiles

The average respondent was 16 years old and had reached the 10th grade. Seventy-five percent of those surveyed were African-American, 16 percent Hispanic, 2 percent white, and 7 percent other.

Many students indicated experience with the criminal justice system: 31 percent of the respondents (43 percent of males, 14 percent of females) reported having been arrested or picked up by the police at least once; 15 percent (23 percent of males, 9 percent of females) reported having stolen something worth at least $50.

Almost one-quarter of all students (25 percent of males, 18 percent of females) reported affiliation with a gang of some kind; most (55 percent) were members of a quasi-gang, a loosely affiliated group; only 4 percent (6 percent of males, 2 percent of females) reported using illegal drugs although 13 percent (18 percent of males and 9 percent of females) said they had sold drugs or worked for someone who did.

All else being equal, it is generally accepted that individuals routinely in locations frequented by offenders and less well policed than other places are more likely to become victims of such crimes as robbery and assault. Many students in the study were exposed to such dangerous environments:

Outside of school

- Four in ten reported that male relatives carried guns outside their homes.
- One in three had friends who carried guns outside the home.
- One in four considered guns easy to get in their neighborhoods.

Inside school

- Two-thirds personally knew someone who carried a weapon to school and one in four reported carrying weapons while in school.

- Two-thirds personally knew someone who had been shot at, stabbed, or otherwise assaulted while in school.
- A third agreed or strongly agreed that "there is a lot of violence in this school."

Who is victimized and why?

Respondents were asked if they had been victims of weapon-related violence while at school or in transit to or from school in the past few years. Twenty percent of the students (30 percent males, 16 percent females) reported that they had been assault victims; more than half of those assaulted had experienced multiple victimizations. Students were as likely to have been shot at as injured with a weapon other than a gun or knife; the odds of having been stabbed were somewhat lower.

Factors such as risky behaviors (e.g., engaging in illegal activities) or occupation in a dangerous environment were hypothesized as potentially linked to weapon-related victimization. An analysis to assess the relationship between any single factor and violent victimization—independent of the effects of other variables—found that high-risk activities, for the most part, increased the likelihood that a student would experience weapon-related victimization. Such activities included theft, weapon use, carrying a weapon to and from school, carrying a weapon while out of school, and gang membership. Only drug-related activity (drug selling and hard-drug use) was not related to victimization.

Victimization also did not differ significantly across racial and ethnic lines, sociodemographic characteristics, age categories, or grade levels. Only gender seemed to influence victimization levels, with males significantly more likely to have experienced a shooting, stabbing, or other weapon-related assault.

Personal acquaintance with those who carry weapons to school and perceiving one's school as a violent place were not linked to victimization. But personal acquaintance with those who had been victimized in school was related to victimization level (perhaps suggesting that the respondent and friend were simultaneously victimized).

Implications

To prevent violence on school grounds, metal detectors and increased security are obvious, yet costly, solutions. Some schools have successfully become "safe havens" from community and family-related problems by teaching students basic conflict management skills.

However, since the dangerous environment outside the school, as opposed to dangerous environment in school, was the better predictor of weapon-related victimization at or during travel to and from school, it appears that schools do not generate weapon-related violence as much as they represent the location (exactly or approximately) where violence is enacted. If the source of trouble lies outside the school walls, school security efforts are likely to displace violence rather than eliminate it. Reduction in the overall level of student violence will follow only after the external conditions promoting violence are addressed.

The Report Summary of this study, *Weapon Related Victimization in Selected Inner-City High School Samples*, by Joseph F. Sheley, Ph.D.; Zina T. McGee, Ph.D.; and James D. Wright, Ph.D., is available from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, 800–851–3420. Ask for NCJ 151526.

BASHING YOUTH: MEDIA MYTHS ABOUT TEENAGERS

By Mike Males

"Unplanned pregnancies. HIV infection and AIDS, other sexually transmitted diseases. Cigarettes, alcohol and drug abuse. Eating disorders. Violence. Suicide. Car crashes." The 21-word lead-in to a Washington Post (12/22/92) report sums up today's media image of the teenager: 30 million 12- through 19-year-olds toward whom any sort of moralizing and punishment can be safely directed, by liberals and conservatives alike. Today's media portrayals of teens employ the same stereotypes once openly applied to unpopular racial and ethnic groups: violent, reckless, hypersexed, welfare-draining, obnoxious, ignorant.

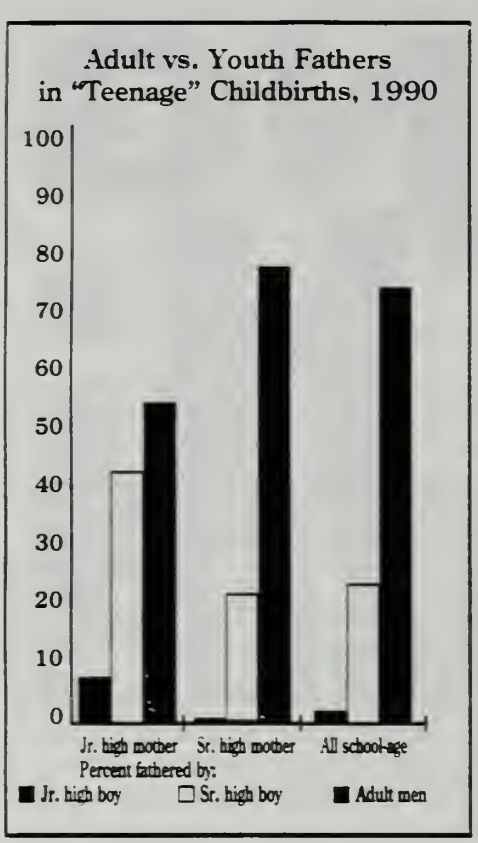
And like traditional stereotypes, the modern media teenager is a distorted image, derived from the dire fictions promoted by official agencies and interest groups.

During the 1980s and 1990s, various public and private entrepreneurs realized that the news media will circulate practically anything negative about teens, no matter how spurious. A few examples among many:

- ***In 1985, the National Association of Private Psychiatric Hospitals, defending the profitable mass commitment of teenagers to psychiatric treatment on vague diagnoses, invented the "fact" that a teenager commits suicide "every 90 minutes"—or 5,000 to 6,000 times every year. Countless media reports of all types, from Associated Press (4/4/91) to Psychology Today (5/92), continue to report this phony figure, nearly three times the true teen suicide toll, which averaged 2,050 per year during the 1980s (Vital Statistics of the United States).***

- In a campaign to promote school-based clinics, the American Medical Association (AMA) and the National Association of State Boards of Education published a report that inflated the 280,000 annual births to unmarried teenage mothers into "half a million," and claimed a "30-fold" increase in adolescent crime since 1950. In fact, 1950 youth crime statistics are too incomplete to compare, and later, more comprehensive national reports show no increase in juvenile crime rates in at least two decades (contrast, for example, the *FBI Uniform Crime Reports* for 1970 and 1992). The facts notwithstanding, the national media (e.g., **AP**, 6/8/90) dutifully publicized the organizations' exaggerations.

- In the early '80s, officials hyping the "war on drugs" orchestrated media hysteria about "skyrocketing" teenage drug abuse at a time when, in fact, teenage drug death rates were plummeting (down 70 percent from 1970 to 1982). In the late '80s, the same media outlets parroted official claims of a drug-war "success" when, in reality, youth drug death rates were skyrocketing (up 85 percent from 1983 to 1991—see **In These Times**, 5/20/92).



Today, official and media distortions are one and the same. Who's to blame for poverty? Teenage mothers, declares Health and Human Services Secretary Donna Shalala in uncritical news stories (see **Los Angeles Times**, 12/12/93) that fail to note that teenage mothers on welfare were poor *before* they became pregnant.

Who's causing violence? "Kids and guns," asserts President Clinton, favorably quoted by reporters (**AP**, 11/14/93) who neglect to mention that six out of seven murders are committed by adults.

Who's dying from drugs, spreading AIDS, committing suicide? Teenagers, teenagers, teenagers, the media proclaim at the behest of official sources, even though health reports show adults much more at risk from all of these perils than are adolescents.

Media Myth: "Teenage" Sex

The strange logic of the modern media's attack on adolescents is nowhere stranger than its portrayal of "teen" sexuality. Consider its jargon: When a child is born to a father over age 20 and a teenage mother (which happened 350,000 times last year), the phenomenon is called "children having children." When an adult pays a teenager for sex, it is "teenage prostitution."

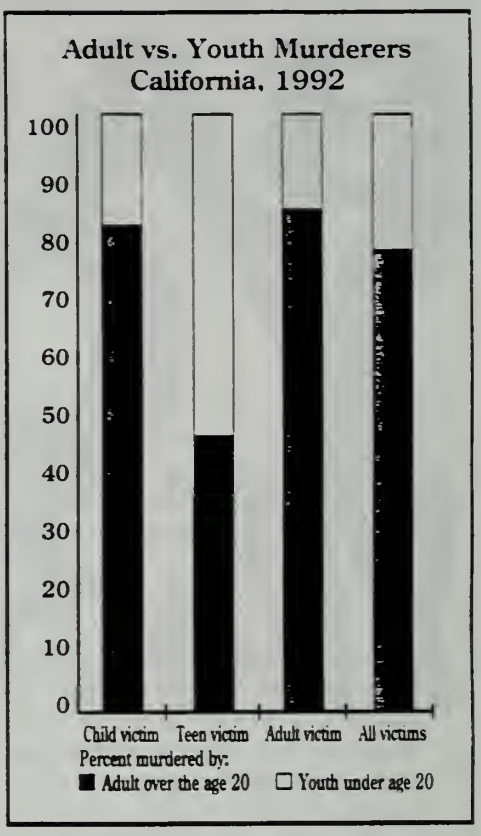
Some 2 million sexually transmitted diseases and a quarter-million abortions that result from adult/teen sex every year are headlined as "teenage" VD, AIDS and abortion. The causes of these "epidemic social problems" are teenage immaturity, risk-taking, and peer pressure. Their cure is more preaching, programming and punishment aimed at "teenage sex."

According to U.S. Public Health Service reports, 71 percent of all teenage parents have adult partners over age 20. California and U.S. vital statistics reports show that men over age 20 cause five times more births among junior high-age girls than do boys their own age, and 2.5 times more births among high school girls than high school boys do. Even though many more pregnancies among teenage females are caused by men older than 25 than by boys under 18, media reports and pictures depict only high schoolers. By their choice of terms and images, the media blame the young and female while giving the adult and male a break.

This is exactly the image desired by thousands of agencies and programs who profit politically and financially from the issue—such as the Centers for Disease Control, which blames "teenage AIDS" on promiscuous "kids...playing Russian roulette." (**AP**, 4/10/92) The media have followed the official lead: The three leading newsweeklies have all run cover stories featuring the same formulaic reporting.

Newsweek's "Teens and AIDS" (8/3/92), **Time**'s "Kids, Sex, & Values" (5/24/93) and **U.S. News & World Report**'s "Teenage Sex: Just Say Wait" (7/26/93) all featured surveys of "kids," photos of suburban schools, sidebars lambasting sexy movies, and dire commentary on sexual irresponsibility among schoolboys and girls. **Time** and **U.S. News** both blamed "teenage sex" on "confused" kids, and held up sex and abstinence education as the cure.

Imagine how different these stories would be if the media told the decidedly un-sexy truth about pregnant teens: the large majority are impoverished girls with histories of physical, sexual and other abuses by parents and other adults, and most are impregnated by adult men. When the **L.A. Times**, in an exceptional report (3/14-15/93), actually showed the bleak childhoods of pregnant, disadvantaged teens, the accompanying official rhetoric blaming **MTV** and "peer pressure" looked silly.



Media Myth: "Teenage" Violence

On "teenage" violence, the media picture is similarly skewed: "Teen Violence: Wild in the Streets" (**Newsweek**, 8/2/93), "Kids and Guns" (**Newsweek**, 3/9/92), "When Killers Come to Class" (**U.S. News**, 11/8/93), and "Big Shots" (**Time**, 8/2/93) all follow a standard format. The lead-in details the latest youth mayhem, followed by selected "facts" on "the causes of skyrocketing teen violence": adolescent depravity, gun-toting metalheads, TV images, rap attitude, gang culture, lenient youth-court judges. And perhaps (in a few well-buried sentences) such small matters as poverty, abuse, racial injustice, unemployment and substandard schools.

Given the emphasis on "teen" violence, a California Department of Justice report (8/13/93) comes as a shock: It found that 83 percent of murdered children, half of murdered teenagers and 85 percent of murdered adults are slain by adults over age 20, not by "kids"—or, in President Clinton's stock phrase (**AP**, 11/14/93), "13-year-olds...with automatic weapons."

Do All Races Bleed Red?

By Earl Ofari-Hutchinson

Even when the press tries to be "objective," if you scratch the surface a little and peer underneath, racial bias often lurks. **Newsweek**'s cover story, "Wild in the Streets" (8/2/93), did report that teen violence is not just a problem of the ghetto. White suburbanites fear that they can be mugged or murdered too, not by marauding blacks, but by the kid next door (or in their own house).

The article ticks off a spate of gruesome shootings, beatings and stabbings that have shocked suburbia. In Houston, it was a rape strangulation. In Dartmouth, Mass., it was a classroom murder. In Ft. Lauderdale, Fla., it was a beating and stabbing. The culprits were white teens. **Newsweek** was the paragon of objectivity. It skipped the gore, guts and hysteria. It made no judgments. There was no sneaky editorializing, no amateurish psychoanalysis of the killer's personality. Just the facts.

When the accounts of the violence shifted from the suburbs to the inner-city "war zone," however, **Newsweek** loaded up. Suddenly, we were in no-man's-land. It was "gang-riddled South Central Los Angeles," with its "blood splattered sidewalks" where kids "grow up to the sounds of sirens and gunshots." They live in "neighborhoods where trauma seems normal" and the "normal rules of behavior don't apply."

There's danger at every turn in this black no-man's-land where wild people roam. Six-year-old Shaakara, who lives in the no-man's-land of Chicago's teeming ghetto, tells us about that. She describes in graphic detail how a man slashed and then beat to death his grandmother. In Detroit, a 19-year-old tells how three of his homies, Bootsie, Shadow and Showtime, were killed. "I saw the blood from the back of his head spread on the snow," he says.

No one should minimize the pain and shock of seeing friends and relatives murdered, whether in the ghetto or suburb. But accounts like this do just that. Are we to believe that no blood spread on the ground from the kid who was bashed in the head and dumped in a quarry by six white teens in Ft. Lauderdale? **Newsweek** never tells us. Maybe that's because their names weren't Bootsie, Shadow and Showtime, and they didn't live among people where the "normal rules of behavior don't apply."

Excerpted from Earl Ofari-Hutchinson's forthcoming book, The Assassination of the Black Male Image.

In fact, FBI reports show 47-year-olds (people Clinton's age) are twice as likely to commit murder than are 13-year-olds.

But while the media champion official rhetoric on violence *by* youth, they rarely provide similar attention to the epidemic of adult violence *against* youth. The National Center on Child Abuse and Neglect (5/93) reported that at least 350,000 children and teenagers are confirmed victims of sexual and other violent abuses every year by adults whose average age is 32 years. Comparison of these figures with crime reports shows that for every violent and sexual offense committed by a youth under 18, there are three such crimes committed by adults against children and teens.

The reporting of the 1992 National Women's Study of 4,000 adult women (**AP**, 5/22/92) is a case study in media bias. The *Rape in America* report found that 12 million American women have been raped; of these, 62 percent were raped before age 18. The half-million-plus children and teenagers victimized every year averaged 10 years of age; their rapists' average age was 27.

The media unrelentingly headline "children having children" and "killer kids," and endlessly wonder what is "out of control when it comes to the way many teens think." (**U.S. News**, 7/26/93) Surely the widespread adult violent and sexual attacks against youths are a compelling answer. Consistent research shows such abuses are the key factors in violence, pregnancy, drug abuse and suicide among teenagers (see **Family Planning Perspectives**, 1-2/92).

But the same media outlets with plenty of space to dissect sexy videos and dirty rap lyrics couldn't find room to examine the real rapes of hundreds of thousands of children and teenagers every year. **Time** gave it three paragraphs (5/4/92), while **U.S. News** didn't mention it at all. Neither did **Newsweek**, although in four years it has devoted five cover stories to the dangers of rock and rap music (3/19/90, 7/2/90, 6/29/92, 11/2/92, 11/29/93).

Similarly, the media have largely ignored the rising number of prison studies (including those at the Minnesota State Prison and the Massachusetts Treatment Center for Sexually Dangerous Persons) that show 60 percent to 90 percent of all inmates—and nearly all of those on death row—were abused as children. The most conservative study, by the National Institute of Justice, projects that 40 percent of all violent crimes (some half-million every year) are associated with offenders having been abused as children (**In These Times**, 9/20/93).

In a similar vein, news outlets (other than a flurry of coverage of the National Commission on Children's report) have generally failed to examine the enormous increase in youth and young-family poverty, which rose by 50 percent from 1973 to 1991 (U.S. Census Bureau, *Poverty in the United States*). Nor have mainstream media seriously addressed the devastating effects of racism, rising poverty and unemployment on a generation of young people of color.

The media portrait reflects politicians' unadmitted priorities: Condemning violence by youth is a guaranteed crowd-pleaser; focusing on adult violence against kids isn't as popular. (Most news consumers are adults, and kids can't vote.)

In a rare exception—a report that devoted more space to poverty and child abuse than to TV sex—**Time**'s Oct. 8, 1990 cover article pointed out a truth long known to prison wardens and juvenile court judges: "If children are not protected from their abusers, then the public will one day have to be protected from the children." But most outlets continue to treat violent youth as mysterious freaks of nature: The lead headline in the Sunday **Los Angeles Times** (12/9/93) opinion section blared: "Who are our children? One day, they are innocent. The next, they may try to blow your head off."

Perhaps the **L.A. Times** (whose land-

mark 8/25/85 survey indicated that childhood sexual abuse is epidemic, affecting one-fifth of all Americans) should instead question its own media escapism. From July through September 1993, that newspaper carried 34 articles and commentaries on the effects of violent media, rap and video games on youth—but not one inch on the effects of child abuse in promoting youth violence.

While the **L.A. Times** gives prominent coverage to charges of child abuse involving the rich and famous—like singer Michael Jackson and the Beverly Hills Menendez brothers—when the L.A. Council on Child Abuse and Neglect reported 140,000 children abused in the county in 1992, the **Times** (11/4/93) relegated the story to an inside section with no follow-up or comment.

Two Sides, Same Bias

The extraordinary lack of context and fairness in media coverage of youth stems from two elemental difficulties. First, the standard media assumption is that fairness is served by quoting "both sides"—but on youth issues, "both sides" frequently harbor adult biases against teenagers.

In the much-publicized debates over school programs to reduce "teen" pregnancy, for example, the press quoted "liberal" sources favoring condom handouts balanced by "conservative" sources demanding abstinence education (e.g. **USA Today**, 11/19/91). However, both lobbies based their arguments on the same myth—that heedless high school boys are the main cause of "teen" pregnancy—and avoided the same disturbing fact: that even if every high school boy abstained from sex or used a condom, most "teen" pregnancies would still occur.

The second difficulty is that "teenage" behavior is not separate from "adult" behavior. Such hot topics as "teen pregnancy," "teen suicide," and "youth violence" are artificial political and media inventions. In real-world environments, teenagers usually act like the adults of their family, gender, race, class, location and era, often because their behaviors occur *with* adults.

For example, *Vital Statistics of the United States* shows that white adults are twice as likely to commit suicide as black adults, and white teens are twice as likely to commit suicide as black teens. From 1940 to 1990, unwed birth rates rose 4.7 times among teenage women and 4.6 times among adult women. The FBI's 1992 *Uniform Crime Reports* show that men commit 88 percent of all adult violent crime; boys commit 88 percent of all juvenile violent crime.

Why are adult contexts, common to media reports on youth prior to the 1970s, only rarely cited today? Because that would prevent adolescents from serving as the latest scapegoats for problems that affect society in general.

And there is a subtler reason: the interests circulating negative images of teens want the source of malaise located *within youth*, where it can be "treated" by whatever solutions the publicizing interest groups profit from, rather than in unhealthy environments whose upgrading will require billions of dollars in public spending. Thus short-term political and corporate profit lies not in fixing environments, but in fixing kids.

The treatment industry's message is clear: "Our teenagers have lost their way," declares the AMA. The press has been a key element in the campaign to persuade the public that the cause of youth pregnancy, violence, suicide, and drug addiction lies within the irrational psychologies and vulnerabilities of adolescents.

A standard news and documentary feature is the "troubled teen" rescued by the teamwork of "loving parents" and "get-tough" professionals. (For an example justifying the abduction of youth by "therapeutic programs," see the **Los Angeles Times**, 6/2/93). Despite melodramatic media splashes advertising the "success" of this program or that therapy (often based on testimonials or the promoter's own "study"), controlled, long-term research finds efforts to "cure" troubled teenagers generally ineffective.

On the other hand, the publicity campaigns for such treatments—disguised as news—have been quite successful. During the 1980s, the number of teens forced into intensive psychiatric treatment quadrupled, while adolescent commitments to drug and alcohol treatment tripled. If institution and treatment industry claims are valid, we should have seen dramatic improvements in youth behavior.

Exactly the opposite is the case. In the last five to 10 years, intense media and government attacks on various behaviors—chiefly drug abuse, violence and pregnancy—have been followed by rapidly *rising* problems among teenagers. Stable violence rates and rapidly declining birth rates and drug death levels prior to 1985 have suddenly reversed: All three rose rapidly from the mid-1980s to the early 1990s. The media's unwillingness to question official policy and its failures helped make these reverses possible.

Beyond Youth-Bashing

A few journalists refuse to kowtow to official myths, and instead publicize the enormous racial disparities inherent in campaigns against "youth violence," the fundamental sexism of the current debate over "teen" pregnancy, the realities of millions of raped, beaten and neglected children, the skyrocketing rates of youth poverty imposed by ever-richer American elites, and the futility of modern behavior modifications, laws and treatments aimed at forcing the young to "adjust" to intolerable conditions.

Ron Harris's **Los Angeles Times** series on juvenile crime (8/22-25/93) analyzed the crucial factors of racism, poverty and abuse in creating today's youth violence, and exploded the popular fiction of lenient sentencing. (Teens, in fact, serve prison terms 60 percent longer than adults for equivalent crimes.) Kevin Fedarko's perceptive eulogy (**Time**, 1/20/92) to post-industrial Camden, New Jersey, "a city of children" relinquished to poverty and prostitution, may stand as the decade's finest illustration of 1990s America's abandonment of its young.

J. Talan's expose (**Newsday**, 1/7/88) of the profiteering behind the skyrocketing rate of fraudulent adolescent psychiatric commitments to "fill empty beds" in "overbuilt hospitals" was one of the few to question official "treatment" claims. **Time**'s indictment (10/8/90) of the "shameful" selfishness, abuses and uncaring attitudes of adults toward "America's most disadvantaged minority: its children" also stands as an indictment of today's media obsequiousness.

These articles' debunking of conventional wisdom does not stop the same children-blaming myths from showing up in day-to-day coverage of youth problems. But these occasional exceptions do suggest how media responsibility could halt today's political assault on youth and heal spreading intergenerational hostilities. ❑

Further Readings

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Appendix
Resource Lists

The CPPAX Education Fund State Directory

1995 MASSACHUSETTS STATE LEGISLATORS

UPDATED ON 3/10/95

Senate

	Room	Tel. 722-
Amorello, Matthew J. (R-Grafton)	314	1485
Antonioni, Robert A. (D-Leominster)	109E	1230
Bernstein, Robert L.(D-Worcester)	218	1544
Berry, Frederick E. (D-Peabody)	320	1410
Bertonazzi, Louis P. (D-Milford)	333	1420
Birmingham, Thomas F. (D-Chelsea)	212	1481
Bulger, William M. (D-South Boston)	332	1500
Clancy, Edward J. (D-Lynn)	408	1350
Creedon, Michael C. (D-Brockton)	413E	1200
Durand, Robert A. (D-Marlborough)	109C	1120
Havern, III, Robert A. (D-Arlington)	513	1432
Hedlund, Robert L. (R-Weymouth)	518	1646
Hicks, Lucile P. (R-Wayland)	413A	1572
Jacques, Cheryl A. (D-Needham)	213C	1555
Jajuga, James P. (D-Methuen)	217	1604
Keating, William R. (D-Sharon)	504	1222
Knapik, Michael R. (R-Westfield)	309	1415
Leahy, Daniel P. (D-Lowell)	416A	1630
Lees, Brian P. (R-E. Longmeadow)	308	1291
Magnani, David P. (D-Framingham)	413H	1640
Melconian, Linda J. (D-Springfield)	213B	1660
Montigny, Mark C.W. (D-New Bedford)	413C	1440
Morrissey, Michael W. (D-Quincy)	520	1494
Murray, Therese (D-Plymouth)	511	1330
Norton, Thomas C. (D-Fall River)	312D	1114
O'Brien, John D. (D-Andover)	416C	1612
Pacheco, Marc R. (D-Taunton)	413F	1551
Pines, Lois G. (D-Newton)	517	1639
Rauschenbach, Henri S. (R-Brewster)	315	1570
Rosenberg, Stanley C. (D-Amherst)	109B	1532
Shannon, Charles E. (R-Winchester)	421	1578
Swift, Jane M. (R-North Adams)	407	1625
Tarr, Bruce E. (R-Gloucester)	507	1600
Tisei, Richard R. (R-Wakefield)	313	1206
Tolman, Warren E. (D-Watertown)	405	1280
Travaglini, Robert E. (D-East Boston)	511	1634
Walsh, Marian (D-Boston)	424	1348
Wetmore, Robert D. (D-Barre)	312	1540
White, W. Paul (D-Dorchester)	109D	1643
Wilkerson, Dianne (D-Boston)	506	1673

House of Representatives

Angelo, Louis F. (D-Brockton)	472	2120
Angelo, Steven (D-Saugus)	472	2120
Barsom, Valerie (R-Wilbraham)	138	2396
Bellotti, Michael G. (D-Quincy)	473F	2210
Binienda, Sr., John J. (D-Worcester)	167	2692
Bosley, Daniel E. (D-North Adams)	43	2030
Brenton, Marianne W. (R-Burlington)	549B	2488
Brett, James T. (D-Boston)	236	2430
Brewer, Stephen M. (D-Barre)	43	2030
Broadhurst, Arthur J. (D-Methuen)	138	2396
Buell, Carmen D. (D-Greenfield)	130	2130
Businger, John A. (D-Brookline)	467	2915
Cabral, Antonio F. (D-New Bedford)	254	2220
Cahill, Michael P. (D-Beverly)	473F	2070
Cahir, Thomas S. (D-Bourne)	445	2960
Canavan, Christine E. (D-Brockton)	38	2470
Caron, Paul E. (D-Springfield)	473B	2230
Casey, Paul C. (D-Winchester)	167	2692
Chandler, Harriette L. (D-Worcester)	436	2800
Chesky, Evelyn (D-Holyoke)	33	2060
Ciampa, Vincent P. (D-Somerville)	472	2230
Cleven, Carol (R-Chelmsford)	36	2552
Cohen, David B. (D-Newton)	20	2410
Colt, James D. (R-Wenham)	436	2800
Connolly, Edward G. (D-Everett)	167	2692
Coon, Gary M. (R-Andover)	124	2100
Correia, Robert (D-Fall River)	122	2810
Cousins, Jr. Frank G. (R-Newburyport)	146	2575
Cresta, Brian M. (R-Wakefield)	436	2800
Cuomo, Donna F. (R-N. Andover)	138	2396
Decas, Charles N. (R-Wareham)	489	2017
DeFilippi, Walter A. (R-W. Springfield)	549	2489
DeLeo, Robert A. (D-Winthrop)	162	2040
Demakis, Paul C. (D-Back Bay)	436	2800
Dempsey, Brian S. (D-Haverhill)	26	2080
DiMasi, Salvatore (D-Boston)	42	2370
DiPaola, James V. (D-Malden)	443	2460
Donovan, Carol A. (D-Woburn)	167	2692
Evans, Nancy (R-Wayland)	541B	2976
Fagan, James H. (D-Taunton)	166	2900
Fennell, Robert (D-Lynn)	436	2800
Finneran, Thomas M. (D-Mattapan)	243	2990
Fitzgerald, Kevin W. (D-Boston)	128	2250
Flaherty, Charles F. (D-Cambridge)	356	2500
Flavin, Nancy A. (D-Easthampton)	236	2430
Fox, Gloria L. (D-Roxbury)	167	2692
Galvin, William C. (D-Canton)	540	2090
Gardner, Barbara (D-Holliston)	477	2263
Garry, Colleen (D-Dracut)	436	2800
Gately, David F. (I-Waltham)	156	2235
Gauch, Ronald W. (R-Shrewsbury)	540	2090
Giglio, Anthony P. (D-Medford)	172	2380
Giodis, Jr., William J. (D-Worcester)	26	2080
Goguen, Emile J. (D-Fitchburg)	134	2400
Golden, Thomas (D-Lowell)	436	2800
Gomes, Shirley A. (R-Harwich)	436	2800
Gray, Barbara E. (D-Framingham)	473F	2210
Greene, Jr., William G. (D-Billerica)	166	2900
Guerriero, Patrick (R-Melrose)	236	2430
Hahn, Cele (R-Westfield)	436	2800
Haley, Paul R. (D-Weymouth)	166	2900
Hall, Geoffrey D. (D-Westford)	473G	2070
Hargraves, Robert S. (R-Groton)	436	2800
Harkins, Lida E. (D-Needham)	38	2470
Hawke, Robert D. (R-Gardner)	548	2802
Herren, Albert (D-Fall River)	540	2090
Hodgkins, Christopher J. (D-Lee)	34	2320
Honan, Kevin G (D-Allston)	146	2575

	Room	Tel.722-
Hyland, Barbara C. (R-Foxboro)	130	2130
Hynes, Frank M. (D-Marshfield)	467	2210
Iannuccillo, M. Paul (D-Lawrence)	448	2582
Jehlen, Patricia D. (D-Somerville)	275	2676
Jones, Bradley (R-N. Reading)	146	2575
Kafka, Louis L. (D-Sharon)	237	2305
Kaprielian, Rachel (D-Watertown)	436	2800
Kaufman, Jay R. (D-Lexington)	436	2800
Keenan, Daniel F. (D-Blandford)	436	2800
Kelly, Shaun P. (R-Dalton)	473B	2230
Kennedy, Thomas P. (D-Brockton)	238	2380
Kerans, Sally P. (D-Danvers)	167	2692
Khan, Kay (D-Newton)	436	2800
Klimm, John C. (D-Barnstable)	146	2575
Koczera, Robert M. (D-New Bedford)	167	2692
Kollios, Paul (D-Millbury)	22	2140
Kraus, Robert (R-Kingston)	489	2017
Kujawki, Paul (D-Webster)	443	2460
Kulik, Stephen (D-Worthington)	134	2400
Lambert, Jr., Edward M. (D-Fall River)	22	2140
Landers, III, Patrick F. (D-Palmer)	236	2430
Lane, Jr, Harold (D-Holden)	473B	2230
Larkin, Peter J. (D-Pittsfield)	167	2692
LeLacheur, Edward A. (D-Lowell)	450	2582
Lepper, John A. (R-Attleboro)	436	2800
Lewis, Jacqueline (R-Bridgewater)	237	2100
Lewis, Maryanne (D-Dedham)	436	2800
Locke, John A. (R-Wellesley)	436	2800
Lynch, Stephen F. (D-So. Boston)	436	2800
Mandile, Anthony M. (D-Waltham)	436	2800
Mannering, Vincent G. (D-Boston)	472	2120
Manning, M. Joseph (D-Milton)	238	2380
Mariano, Ronald (D-Quincy)	33	2060
Marini, Francis L. (R-Hanson)	436	2800
Marzilli, Jim (D-Arlington)	236	2430
McDonough, John E. (D-Boston)	254	2220
McGee, Thomas M. Jr. (D-Lynn)	436	2800
McIntyre, Joseph B. (D-New Bedford)	138	2396
McManus, II, William J. (D-Worcester)	448	2582
Menard, Joan M. (D-Somerset)	370	2300
Micell, James R. (D-Wilmington)	167	2692
Murphy, Dennis M. (D-Springfield)	540	2090
Murray, Mary Jeanette (R-Cohasset)	134	2400
Nagle, Jr., William P. (D-Northampton)	146	2575
Naughton, Harold P. (D-Clinton)	436	2800
O'Brien, Janet W. (D-Hanover)	134	2400
Owens-Hicks, Shirley (D-Boston)	437G	2070
Panagiotakos, Steven C. (D-Lowell)	39	2240
Parente, Marie J. (D-Milford)	156	2256
Paulsen, Anne M. (D-Belmont)	22	2140
Pedone, Vincent A. (D-Worcester)	34	2320
Peters, David M. (R-Charlton)	124	2100
Petersen, Douglas W. (D-Marblehead)	473F	2210
Peterson, George N., Jr. (R-Grafton)	436	2800
Petrolati, Thomas M. (D-Ludlow)	134	2400
Poirier, Kevin (R-N. Attleborough)	549A	2491
Quinn, John F. (D-Dartmouth)	540	2090
Reinstein, William G. (D-Revere)	167	2692
Resor, Pamela P. (D-Acton)	33	2060
Richie, Charlotte Golar (D-Boston)	436	2800
Rogeness, Mary (R-Longmeadow)	238	2380
Rogers, John H. (D-Norwood)	36	2552
Ruane, J. Michael (D-Salem)	277	2010
Rushing, Byron (D-Boston)	40	2240
Scaccia, Angelo M. (D-Boston)	155	2883
Scibelli, Anthony M. (D-Springfield)	238	2380
Serra, Emanuel G. (D-Boston)	481	2255
Simmons, Mary Jane (D-Leominster)	448	2582
Slattery, John P. (D-Peabody)	436	2800
Sprague, Jo Ann (R-Walpole)	146	2575
Stanley, Harriett L. (D-Merimac)	436	2800
Stefanini, John A. (D-Framingham)	130	2130
Stoddart, Douglas W. (R-Natick)	39	2240
Story, Ellen (D-Amherst)	162	2040
Straus, William M. (D-Mattapoisett)	40	2240
Sullivan, Joseph C. (D-Braintree)	443	2460
Sullivan, Michael J. (R-Abington)	237	2306
Swan, Benjamin (D-Springfield)	138	2396
Teagan, Linda (R-Plymouth)	436	2800
Teague, III, Edward B. (R-Yarmouth)	124	2100
Thompson, Alvin E. (D-Cambridge)	170	2783
Tobin, A. Stephen (D-Quincy)	138	2396
Tolman, Stephen (D-Boston)	436	2800
Toomey, Jr., Timothy J. (D-Cambridge)	254	2220
Travis, Philip (D-Rehoboth)	42	2370
Turkington, Eric (D-Falmouth)	33	2060
Vallanti, Daniel (D-Marlboro)	540	2090
Vallee, James (D-Franklin)	473G	2070
Verga, Anthony (D-Gloucester)	436	2800
Voke, Richard A. (D-Chelsea)	343	2600
Wagner, Joseph F. (D-Chicopee)	443	2460
Walrath, Patricia A. (D-Stow)	275	2676

Committees

Banks & Banking	42	2370
Bills in Third Reading, House	20	2410
Bills in Third Reading, Senate	200	1470
Commerce & Labor	43	2030
Counties	33	2060
Criminal Justice	166	2900
Education	473G	2070
Election Laws	26	2080
Energy	540	2090
Ethics, House	162	2040
Federal Financial Assistance	156	2256
Government Regulations	472	2120
Health Care	130	2130
Housing & Urban Development	38	2470
Human Services & Elderly Affairs	22	2140
Insurance	254	2220
Judiciary (House staff)	138	2396
Judiciary (Senate staff)	213	1555
Local Affairs	134	2400
Natural Resources	473F	2210
Personnel & Administration	448	2582
Post Audit & Oversight, House	146	2575
Post Audit & Oversight, Senate	312	1252
Public Safety	473B	2230
Public Service	40	2240
Rules, House	167	2692
Rules, Senate	431	1520
State Administration	34	2320
Taxation	238	2430
Transportation	443	2460
Way & Means, House	251A	2700
Ways & Means, Senate	212	1481

Information Offices:

House Clerk	145	2356
House Lobby & Information	350	2000
Senate Clerk	208	1276
Senate Lobby & Information	300	1455
Legislative Documents Room	428	2860
Hearing Impaired Info (TTY/TTD)	237	2659
State Bookstore	116	727-2834
State Library	341	727-2590
Citizens' Information Service		727-7030
Outside Boston, toll-free		1-800-392-6090

All legislative telephones are area code (617) and begin with the exchange 722-. Mail address for all legislators and committees:
State House, Boston, MA 02133

CPPAX Education Fund, Inc.
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The 1995 CPPAX Education Fund Congressional Directory

The Senate

	Phone	Fax
Edward M. Kennedy[D] (Labor & Human Resources; Joint Economic; Judiciary; Armed Services)		
315 Russell Senate Office Bldg, Washington, DC 20510	202-224-4543	202-224-2417
Room 2400, JFK Federal Bldg, Boston, MA 02203	617-565-3170	617-565-3183
E-Mail Address - Senator@Kennedy.Senate.Gov		
John F. Kerry [D]		
(Foreign Relations; Commerce, Science & Transp.; Small Business; Banking, Housing & Urban Affairs, Intelligence)		
421 Russell Senate Office Bldg, Washington, DC 20510	202-224-2742	202-224-8525
One Bowdoin Square, 10th floor, Boston, MA 02114	617-565-8519	617-248-3870
Room 311, 222 Milliken Place, Fall River, MA 02722	508-677-0522	508-677-0275
Room 504, 145 State Street, Springfield, MA 01103	413-785-4610	413-736-1049
Room 504, 90 Madison Place, Worcester, MA 01608	508-831-7380	

The House, by Congressional District

1. John Olver [D] (Budget, Technology, Economic, Education opportunities)		
1027 Longworth House Office Bldg, Washington, DC 20515	202-225-5335	202-226-1224
Federal Building, 78 Center Street Arterial, Pittsfield, MA 01201	413-442-0946	413-443-2792
Suite 202, 187 High Street, Holyoke, MA 01040	413-532-7010	413-532-6543
Philbin Federal Bldg, RM 223, 881 Main Street, Fitchburg, MA 01420	508-342-8722	508-343-8156
2. Richard E. Neal [D] (Ways & Means)		
2431 Rayburn House Office Bldg, Washington, DC 20515	202-225-5601	202-225-8112
1550 Main Street, Springfield, MA 01103	413-785-0325	413-747-0604
2 Congress St., Milford, MA 01757	508-634-8198	508-634-8398
3. Peter I. Blute [R] (Transportation & Infrastructure; Government Reform & Oversight)		
1029 Longworth House Office Bldg, Washington, DC 20515	202-225-6101	202-225-2217
100 Front Street, Suite 1079 Worcester, MA 01608	508-752-6789	508-752-9888
7 North Main Street, Room 200, Attleboro, MA 12703	508-223-3100	508-223-3323
1039 South Main Street, Fall River, MA 02720	508-675-3400	508-675-7755
4. Barney Frank [D] (Banking & Financial Services; Judiciary; Budget)		
2404 Rayburn House Office Bldg, Washington, DC 20515	202-225-5931	202-225-0182
29 Crafts Street, Newton, MA 02158	617-332-3920	617-332-2822
558 Pleasant Street, New Bedford, MA 02740	508-999-6462	508-999-6468
222 Milliken Pl., Fall River, MA 02722	508-674-3030	508-674-3551
89 Main St., Bridgewater, MA 02324	508-697-9325	508-697-0263
5. Martin T. Meehan [D] (Small Business; Armed Services)		
318 Cannon House Office Bldg, Washington, DC 20515	202-225-3411	202-226-0177
11 Kearney Square, Lowell, MA 01852	508-459-0101	508-459-1907
Bay State Building, 11 Lawrence Street, Lawrence, MA 01840	508-681-6200	508-682-6070
Walker Building, 250 Main Street, Marlboro, MA 01752	508-460-9292	508-460-6869
6. Peter G. Torkildsen [R] (Armed Services; Small Business)		
120 Cannon House Office Bldg, Washington, DC 20515	202-225-8020	202-225-8037
70 Washington Street, Salem, MA 01970	508-741-1600	508-744-1640
7. Edward J. Markey [D] (Energy & Commerce; Interior (on leave))		
2133 Rayburn House Office Bldg, Washington, DC 20515	202-225-2836	202-225-8689
5 High Street, Suite 101, Medford, MA 02155	617-396-2900	617-396-3220
8. Joseph P. Kennedy, II [D] (Aging; Banking, Finance & Urban Affairs; Veterans Affairs)		
2241 Rayburn House Office Bldg, Washington, DC 20515	202-225-5111	202-225-9322
Suite 605, The Schrafft Ctr, 529 Main St, Charlestown, MA 02129	617-242-0200	617-241-7593
801A, Tremont St., Roxbury, MA 02118	617-445-1281	617-427-7193
9. John Joseph Moakley [D] (Rules)		
235 Cannon House Office Bldg, Washington, DC 20515	202-225-8273	202-225-3984
220, World Trade Center, Commonwealth Pier, Boston, MA 02210	617-565-2920	617-439-5157
4 Court Street, Taunton, MA 02780	508-824-6676	508-880-3520
166 Main Street, Brockton, MA 02401	508-586-5555	508-580-4692
10. Gerry Studds [D] (Energy & Commerce; Natural Resources)		
237 Cannon House Office Bldg, Washington, DC 20515	202-225-3111	202-225-2212
1212 Hancock Street, Quincy, MA 02169	617-770-3700	617-770-2984
146 Main Street, Hyannis, MA 02601	508-771-0666	508-790-1959
166 Main Street, Brockton, MA 02401	508-584-6666	508-580-4692
225 Water Street, # 401, Plymouth, MA 02360	508-747-5500	508-747-6990
Toll Free Phone Numbers	800-794-9911, 800-870-2626	

Victim Assistance Resources

Statewide Victim Assistance Agencies	
Massachusetts Office for Victim Assistance	(617) 727-5200
Victim Compensation Division, Attorney General's Office	(617) 727-2200
Criminal History Systems Board, Victim Service Unit	(617) 727-0090
Department of Correction, Victim Service Unit	(617) 727-3300
Parole Board, Victim Service Unit	(617) 727-3271
U.S. Attorney's Office, Victim Witness Assistance	(617) 223-9400
Statewide Hotlines and Referral Centers:	
Child Abuse & Neglect Hotline	(800) 792-5200
Domestic Violence Hotline - *Call "411" to be connected to a local shelter*	DIAL 411
Elder Abuse & Neglect Hotline	(800) 922-2275
Lawyer Referral	(800) 392-6164
Massachusetts Alcohol and Drug Referral HotLine	(800) 327-5050
Parents Anonymous of Massachusetts	(800) 882-1250
Parental Stress Line	(800) 632-8188
Samaritans Suicide Prevention Hotline	(617) 247-8050
Samariteens	(800) 252-8336
District Attorney Victim Witness Programs:	
Berkshire County - Elizabeth Keegan, Director	(413) 443-3500
Bristol County - Michele Stanton, Director	(508) 997-0711
Cape and Islands District - Virginia Bein, Director	(508) 362-8103
Essex County - Michaelene McCann, Director	(508) 745-6610
Hampden County - Maria Rodriguez, Director	(413) 747-1038
Middlesex County - Jeffrey Ryan, Director	(617) 494-4604
Norfolk County - Sandra Pimentel, Director	(617) 329-5440
Northwestern District - Susan Manatt, Director	(413) 586-5780
Plymouth County - Michelle Mawn, Director	(508) 584-8120
Suffolk County - Janet Fine, Director	(617) 725-8653
Worcester County - Tony Pelligrini, Director	(508) 792-0214
Drunk Driving - MADD Chapters:	
MADD Statewide Victim Hotline	(800) 633-6233
MADD State Office	(508) 875-3736
MADD Berkshire County Chapter	(413) 684-3133
MADD Bristol County Chapter	(508) 673-6233
MADD Cape Cod Chapter	(508) 420-0200
MADD Hampden County Chapter	(413) 592-9953
MADD Metro West Chapter	(508) 624-6233
MADD Plymouth County Chapter	(508) 585-1888
MADD Worcester County Chapter	(508) 831-9785
Family Violence Services:	
Alternative House - *Lowell*	(508) 454-1436
ARCH - *Springfield*	(413) 733-7100
Asian Shelter and Advocacy Project - *Boston*	(617) 338-2350
Casa Myrna Vasquez - *Boston*	(617) 521-0100
Daybreak - *Worcester*	(508) 755-9030

Domestic Violence Ended (DOVE) - *Quincy*	(617) 471-1234
Elizabeth Stone House - *Jamaica Plain*	(617) 522-3417
F.I.N.E.X. House - *Dorchester*	(617) 288-1054
Fenway Community Health Center (Gay/Lesbian Services) - *Boston*	(617) 267-0900
Mary Foreman House - *Dorchester*	(800) 992-2600
Harbor Me - *Chelsea*	(617) 889-2111
Help for Abused Women and Their Children (HAWC) - *Salem*	(508) 744-6841
Independence House - *Hyannis*	(800) 439-6507
International Institute - *Boston*	(617) 536-1081
N.E.L.C.W.I.T. - *Greenfield*	(413) 772-0806
Necessities/Necessidades - *Northampton*	(413) 586-5066
Network for Battered Lesbians - Boston	(617) 424-8611
New Bedford Women's Center Battered Women Project - *New Bedford*	(508) 992-4222
New Beginnings - *Westfield*	(413) 562-1920
New Hope - *Taunton*	(508) 824-4757
New Hope - *Attleboro*	(508) 695-2113
New Hope - *Norwood*	(617) 762-1530
Our Sister's Place - *Fall River*	(508) 677-0224
Renewal House - *Roxbury*	(617) 566-6881
Respond - *Somerville*	(617) 623-5900
Safe Place, Inc. - *Nantucket*	(508) 228-2111
Services Against Family Violence - *Malden*	(617) 324-2221
South Shore Women's Center - *Plymouth*	(508) 746-2664
Transition House - *Cambridge*	(617) 661-7203
Waltham Battered Women's Support Committee - *Waltham*	(617) 899-8676
Womanshelter/Companeras - *Holyoke*	(413) 536-1628
Womansplace - *Brockton*	(508) 588-2041
Women's Crisis Center - *Newburyport*	(508) 465-2155
Women's Protective Services - *Framingham*	(508) 626-8686
Women's Resource Center - *Lawrence*	(508) 685-2480
Women's Resource Center - *Haverhill*	(508) 373-4041
Women's Resources - *Fitchburg*	(508) 342-9355
Women's Resources - *Gardner*	(508) 630-1031
Women's Resources - *Clinton*	(508) 368-1311
Women's Service Center - *Pittsfield*	(413) 443-0089
Women's Service Center - *North Adams*	(413) 663-9709
Women's Support Services - *Vineyard Haven*	(508) 696-7233

Homicide Bereavement Services:

After Homicide Program - *Worcester*	(508) 791-3261
Family Bereavement Program - *Marlborough*	(508) 481-8290
Homicide Bereavement Program - *Greenfield*	(413) 774-7931
Living After Murder Program - *Roxbury*	(617) 442-7400
Omega Emotional Support Services - *Somerville*	(617) 776-6369
Project Reach - *New Bedford and Plymouth*	(508) 996-3147
Surviving After Murder Program - *Springfield*	(413) 732-7419
Trauma Clinic - *Boston*	(617) 731-3200
Victims of Crime and Loss Program (VOCAL) - *Beverly*	(508) 927-4506
Victims of Violence Program - *Cambridge*	(617) 498-1150

Sexual Assault Services:

ARCH - YMCA - *Springfield*	(413) 733-7100
Beth Israel Hospital Rape Crisis Service - *Boston*	(617) 667-4645
Blackstone Valley Rape Crisis Team - *Milford*	(508) 478-2992
Boston Area Rape Crisis Center - *Cambridge*	(617) 492-RAPE

Cape Ann Sexual Assault Crisis Service - *Gloucester*	(508) 283-2272
Cape Cod Rape Crisis Center - *Hyannis*	(800) 439-6507
Community Programs Against Sexual Abuse - *Roxbury*	(617) 536-6500
Everywoman's Center - *Amherst*	(413) 545-0800
Greater Marlborough Rape Crisis Center - *Marlborough*	(508) 485-RAPE
Latinas Against Sexual Assault - *Lawrence*	(508) 685-2480
Massachusetts General Hospital Rape Emergency Unit - *Boston*	(617) 726-2000
N.E.L.C.W.I.T. - *Greenfield*	(413) 772-0806
New Hope Sexual Assault Program - Attleboro	(508) 824-4757
Norfolk County Sexual Assault Unit - *Dedham*	(617) 326-1111
North Shore Rape Crisis Center - *Beverly*	(800) 922-8772
Plymouth County Rape Crisis Center - *Brockton*	(508) 588-8255
Project Rap Crisis Team - *Beverly*	(800) 922-8772
Rape Crisis Center of Berkshire County - *Pittsfield*	(413) 442-6708
Rape Crisis Program of Central Massachusetts - *Worcester*	(508) 799-5700
Rape Crisis Program of New Bedford - *New Bedford*	(508) 996-6656
Rape Crisis Service of Greater Lowell - *Lowell*	(800) 542-5212
Women's Protective Services - *Framingham*	(508) 626-8686

Massachusetts Victim/Citizen Advocacy and Support Groups

Battered Women Fighting Back	(617) 482-9497
Charlestown After Murder Program (CHAMP)	(617) 848-8973
Citizens for Safety	(508) 542-7712
Clothesline Project	(508) 385-7004
Coalition of People to Prevent Gun Violence	(617) 723-9867
Joey Fournier Victim Services	(617) 246-0066
Massachusetts Citizens Against Handgun Violence	(617) 723-9867
Mothers Against Drunk Driving *(see also chapter listings)*	(508) 633-6233
Parents of Murdered Children	(617) 499-7998
People of Color Against Homicide	(617) 436-5473
Real Men	(617) 782-7838
Save Our Sons and Daughter (SOSAD)	(617) 739-5106
Survivor Connections	(401) 941-2548
Women's Independence Network	(508) 872-8350

Statewide Research and/or Advocacy Organizations

Boston Coalition	(617) 451-1441
Children's Law Center of Massachusetts	(617) 581-1977
Civil Liberties Union of Massachusetts (CLUM)	(617) 482-3170
Crime and Justice Foundation	(617) 426-9800
Educational Development Center	(617) 969-7100
Flaschner Judicial Institute	(617) 542-8838
Massachusetts Coalition of Battered Women Service Groups	(617) 248-0922
Massachusetts Coalition of Rape Crisis Service Centers	(508) 791-9546
Massachusetts Law Reform Institute	(617) 357-0700
Massachusetts Society for the Prevention of Cruelty to Children	(617) 227-2280
National Organization for Women - Massachusetts	(617) 782-1056
Violence Prevention Project	(617) 534-5196

State Agency Resources:

Administrative Office of the Trial Court	(617) 742-8575
AIDS/HIV Bureau (DPH)	(617) 727-0368
Attorney General's Office	(617) 727-2200
Board of Bar Overseers	(617) 357-1860
Child Support Enforcement Division	(617) 727-4200

Citizen Information Service	(617) 727-7030
Committee for Public Counsel Services	(617) 482-6212
Corrections Department (DOC)	(617) 727-3300
Criminal History Systems Board	(617) 727-0090
Criminal Justice Training Council	(617) 727-7827
Disabled Persons Protection Commission	(617) 727-6465
District Court Administrative Office	(508) 745-9010
Elder Affairs, Executive Office	(617) 727-7750
Family Violence and Sexual Abuse Resources	(617) 727-7222
Governor's Alliance Against Drugs	(617) 727-0786
Governor's Highway Safety Bureau	(617) 727-5073
Governor's Office	(617) 727-3600
Governor's Office of Constituent Services	(617) 727-6250
Judicial Conduct Commission	(617) 725-8050
Judicial Training Institute	(617) 742-8383
Juror Information Line	(800) THE-JURY
Juvenile Court Administrative Office	(617) 367-5767
Massachusetts Commission Against Discrimination: Eastern	(617) 727-3990
Massachusetts Commission Against Discrimination: Western	(413) 739-2145
Massachusetts Legal Assistance Corporation	(617) 367-8544
Massachusetts Office for Children	(617) 727-8900
Massachusetts Office for Victim Assistance	(617)727-5200
Massachusetts Office on Disability	(617) 727-7440
Massachusetts State Police	(617) 566-4500
Massachusetts State Police, Missing Person Unit	(800) 622-5999
Mental Health Department (DMH)	(617) 727-5500
Parole Board	(617) 727-3271
Patient Abuse Advisory Office (DPH)	(800) 462-5540
Probate and Family Court Administrative Office	(617) 742-9743
Probation, Office of the Commissioner	(617) 727-5300
Public Health Department (DPH)	(617) 727-2700
Public Safety, Executive Office	(617) 727-7775
Public Welfare Department (DPW)	(617) 348-8500
Refugees and Immigrants Office	(617) 727-7888
Social Services Department (DSS)	(617) 727-0900
Superior Court Administrative Office	(617) 725-8130
Supreme Judicial Court	(617) 557-1000
Victim Compensation and Assistance Division	(617) 727-2200
Victim and Witness Assistance Board	(617) 727-5200
Violence Prevention Office (DPH)	(617) 727-6088
Youth Services Department (DYS)	(617) 727-7575

Massachusetts State Correctional Facilities

Bay State Correctional Center	(617) 727-8474
Boston State Pre-Release Center	(617) 727-8130
Bridgewater State Hospital	(508) 697-8161
Lancaster Pre-Release Center	(508) 368-8388
Massachusetts Boot Camp	(617) 727-1507
MCI Cedar Junction/Walpole	(508) 668-4730
MCI Concord	(617) 727-1950
MCI Framingham	(617) 727-5056
MCI Lancaster	(508) 792-7590
MCI Norfolk	(508) 668-0800
MCI Plymouth	(508) 727-8938
MCI Shirley	(508) 425-4341

Northcentral Correctional Institution	(508) 792-7560
Northeastern Correctional Center	(508) 369-4120
Old Colony Correctional Center	(508) 697-3360
Park Drive Pre-Release Center	(617) 727-2275
Pondville Correctional Center	(617) 727-5203
Southeast Correctional Center	(508) 697-9298
South Middlesex Correctional Center	(508) 872-0281

Massachusetts Professional Organizations

Massachusetts Bar Association	(617) 542-3602
Massachusetts Chiefs of Police Association	(617) 723-5002
Massachusetts District Attorneys Association	(617) 723-0642
Massachusetts Medical Society	(617) 893-4610
Massachusetts Psychological Association	(617) 523-6320
Massachusetts Sheriffs Association	(617) 635-1100
Women's Bar Association of Massachusetts	(617) 695-1851
Women's Legislative Caucus	(617) 722-2266

National Hotlines and Referral Centers:

AIDS/HIV Information Hotline	(800) 342-2437
Childhelp USA	(800) 422-4453
Drug Abuse Hotline	(800) 662-HELP
Family Violence Prevention Fund Information Line	(800) 313-1310
Marital Rape Information Line	(217) 244-1024
Mothers Against Drunk Driving	(800) 438-6233
National Center for Missing and Exploited Children	(800) 843-5678
National Child Abuse Hotline	(800) 792-5200
National Criminal Justice Referral Center	(800) 851-3420
National Family Violence Helpline	(800) 222-2000
National Self-Help Clearinghouse	(212) 642-2944
National Sexually Transmitted Diseases Hotline	(800) 227-8922
National Victim Center - Infolink	(800) 394-2225
National Victim Resource Center	(800) 627-6872
Rape, Abuse and Incest National Network	(800) 656-4673

National Victim/Citizen Advocacy and Support Groups

Alliance Against Intoxicated Motonsts	(708) 240-0027
Alliance Against Violence in Entertainment for Children	(508) 481-6926
American Coalition for Abuse Awareness	(202) 462-4688
Child Find of America, Inc.	(914) 255-1848
Child Help USA	(703) 399-1926
Children of Murdered Parents	(310) 699-8427
Children's Safety Network	(703) 524-7802
Coalition to Stop Gun Violence	(202) 544-7190
Compassionate Friends, Inc.	(708) 990-0010
Concerns of Police Survivors, Inc.	(314) 346-4911
Cult Awareness Network	(312) 267-7777
Ending Men's Violence Network	(301) 386-2737
Incest Survivors Anonymous	(213) 428-5599
Incest Survivors Resource Network International	(505) 521-4260
Justice for Surviving Victims, Inc.	(305) 587-7144
Missing Kids International, Inc.	(703) 761-2456
Men Stopping Rape	(608) 257-4444
Mothers Against Drunk Driving	(800) 438-6233
National Coalition Against Domestic Violence	(303) 839-1852

National Coalition Against Pornography	(513) 521-6227
National Coalition Against Sexual Assault	(717) 232-7460
Neighbors Who Care: Victims Committee	(703) 904-7311
Parents of Murdered Children	(513) 721-5683
Remove Intoxicated Drivers USA	(518) 393-4357
Security on Campus, Inc.	(610) 768-9330
Spiritual Dimensions in Victim Services	(303) 740-8171
Victims CAN (Constitutional Amendment Network)	(817) 877-3355

National Research and/or Advocacy Organizations

American Association of Retired Persons	(202) 434-2277
American Civil Liberties Union	(212) 944-9800
American Indian Law Center	(505) 277-5462
American Judicature Society	(312) 558-6900
Amnesty International	(212) 807-8400
Anti-Defamation League	(212) 490-2525
Battered Women's Justice Project	(800) 537-2238
Campus Violence Prevention Center	(410) 830-2178
Center for Constitutional Rights	(212) 614-6464
Center for Law and Justice	(206) 685-2043
Center for the Prevention and Control of Interpersonal Violence	(313) 577-2424
Center for the Prevention of Sexual and Domestic Violence	(206) 634-1903
Center for the Study and Prevention of Violence	(303) 492-1032
Center for the Study of Crime Victims' Rights, Remedies & Resources	(203) 932-7041
Center for Women Policy Studies	(202) 872-1770
Center to Prevent Handgun Violence	(202) 289-7319
Children's Defense Fund	(202) 628-8787
Council of State Governments	(606) 244-8000
Family Violence Prevention Fund	(415) 252-8900
Foundation for the Prevention of Child Abuse	(419) 535-3232
Handgun Control, Inc.	(202) 898-0792
Health Resource Center on Domestic Violence	(800) 313-1310
Human Rights Resource Center	(415) 453-0404
Kempe National Center on Child Abuse	(303) 321-3963
National Center for Missing and Exploited Children	(800) 843-5678
National Center for Prosecution of Child Abuse	(703) 739-0321
National Center for State Courts	(804) 253-2000
National Center on Elder Abuse	(202) 682-0100
National Center on Women and Family Law	(212) 674-8200
National Children's Advocacy Center	(205) 533-5437
National Clearinghouse on Marital and Date Rape	(510) 524-1582
National Clearinghouse for the Defense of Battered Women	(215) 351-0010
National Committee for the Prevention of Child Abuse	(312) 663-3520
National Committee for the Prevention of Elder Abuse	(508) 793-6166
National Crime Prevention Council	(202) 466-6272
National Crime Victims Research and Treatment Center	(803) 792-2945
National Gay and Lesbian Task Force: Anti-Violence Project	(202) 332-6483
National Indian Justice Center	(707) 762-8113
National Law Enforcement Council	(202) 835-8020
National Organization for Women	(202) 331-0066
National Organization of Victim Assistance	(202) 232-6682
National Resource Center on Child Abuse and Neglect	(800) 394-3366
National Resource Center on Child Sexual Abuse	(800) 543-7006
National School Safety Center	(805) 373-9977
National Woman Abuse Prevention Center	(202) 895-5271

National Women's Law Center	(202) 328-5160
National Victim Center	(703) 276-2880
NOW Legal Defense and Education Fund	(212) 925-6635
Resource Center on Child Protection and Custody	(800) 527-3223
State Justice Institute	(703) 684-6100
Victims' Assistance and Legal Organization (VALOR)	(703) 538-6898
Violence Policy Center	(202) 822-8200
Women's Legal Defense Fund, Inc.	(202) 986-2600

Federal Agency Resources:

Bureau of Alcohol, Tobacco and Firearms: Boston	(617) 565-7040
Bureau of Justice Statistics Response Center	(800) 421-6770
Centers for Disease Control and Prevention	(404) 639-3311
Clearinghouse on Child Abuse and Neglect	(800) 394-3366
Drugs and Crime Date Center and Clearinghouse	(800) 666-3332
Drug Enforcement Administration: Boston	(617) 557-2100
Drug Court Resource Center	(202) 514-5947
Federal Bureau of Investigation: Boston	(617) 742-5533
Justice Statistics Clearinghouse	(800) 732-3277
Juvenile Justice Clearinghouse	(800) 638-8736
National Center for Injury Prevention and Control	(404) 488-4665
National Clearinghouse for Alcohol and Drug Information	(800) 729-6686
National Criminal Justice Reference Service	(800) 851-3420
National Conference of Commissioners on Uniform State Laws	(312) 915-0195
National Institute of Mental Health: Anti-Social/Violent Behavior Branch	(301) 443-3728
National Victims Resource Center	(800) 627-6872
Supreme Court of the United States	(202) 479-3000
U.S. Attorney's Office: Boston	(617) 223-9400
U.S. Department of Justice	(202) 514-2000
U.S. Office for Victims of Crime	(202) 307-5983
U.S. Office of Juvenile Justice and Delinquency	(202) 307-0751
Violence Against Women Program	(202) 514-5947

National Professional Organizations

American Association for Counseling and Development	(703) 823-9800
American Bar Association: Criminal Justice Section	(202) 331-2260
American Correctional Association: Victims' Committee	(804) 323-2365
American Probation and Parole Association	(606) 244-8215
American Professional Society on the Abuse of Children	(312) 554-0166
American Psychiatric Association	(202) 682-6000
American Psychological Association	(202) 336-5500
American Public Health Association	(202) 789-5600
Association of Paroling Authorities: Victims' Committee	(916) 354-1780
Coalition of Victims' Attorneys and Consultants	(703) 276-2880
National Association of Attorneys General	(202) 434-8000
National Association of Crime Victim Compensation Boards	(703) 370-2996
National Criminal Justice Association	(202) 347-4900
National District Attorneys Association	(703) 549-9222
National Governors' Association	(202) 624-5300
National Sheriffs Association	(800) 424-7827
National Association of Social Workers	(202) 408-8600
National Association of Women Judges	(804) 253-2000
National Association of Women Lawyers	(312) 988-6186
U.S. Association for Victim-Offender Mediation	(219) 462-1127
U.S. Conference of Mayors	(202) 293-7330

National Victim Center

CRIME AND VICTIMIZATION IN AMERICA

STATISTICAL OVERVIEW

General Data

- Five out of six people will be victims of violent crimes at least once in their lifetimes. *(Koppel, 1987).*

- There was one violent crime every 16 seconds in 1993. *(Federal Bureau of Investigation, 1994a).*

- Five percent of U.S. households had at least one member age 12 or older who had been the victim of a violent crime in 1992. *(Rand, 1993).*

- Persons age 12 or older, living in the United States, experienced 43.6 million crimes in 1993. Approximately 11.4 million of these victimizations consisted of violent crimes such as rape, robbery, and aggravated and simple assaults which is a 6.7 increase over 1992. *(Bastian, 1994).*

- Fifty percent of all violent crimes were reported to police in 1992. *(Bastian and DeBarry, 1994).*

- Persons under age 25 had the highest rates of both violent and theft victimizations in 1992. For persons over 25, as age increased, their victimization rates decreased. *(Bastian and DeBarry, 1994).*

- In thirty percent of violent crime victimizations in 1992, victims reported that they believed their assailants were under the influence of drugs or alcohol. *(Bastian and DeBarry, 1994).*

- Between 1980 and 1992, the estimated number of adult arrests for drug law violations increased by 108%, from 471,200 to 980,700. *(Gilliard and Beck, 1994).*

- In 1992, black males had the highest rate of violent crime victimization of 63 victimizations per every 1,000 persons. Black females, white males and white females had decreasing rates of 40, 36 and 24 per 1,000 respectively. Black males, age 16 to 19, had the highest rate for any race, age or gender category with 158.1 violent victimizations per 1,000 persons. *(Bastian and DeBarry, 1994).*

- More than 52,000 children under age 18 had mothers who were in jail in 1989. *(Snell, 1992).*

Cost of Crime

- A recent study has calculated that rapes average a cost of $60,376 per crime victim. Robberies average $24,947; assaults, $22,314; arsons, $49,603; and murders, $2,387,054. These costs were calculated using 1989 dollar values.
  (Miller, Cohen and Rossman, 1993).

- In 1990, the total cost of firearm injuries is estimated to have been $20.4 billion.
  (Max and Rice, 1993).

- Nearly one-quarter of all 1992 completed robberies where the victim was physically injured resulted in theft of less than $50.
  (Bastian and DeBarry, 1994).

- In 1992, more than 85,000 violent crime victims lost eleven or more days from work due to their injuries.
  (Bastian and DeBarry, 1994).

- The estimated cost of treating a firearm injury varies from $15,000 to $20,000. If intensive care is required, the cost may reach $150,000.
  (Council on Scientific Affairs, 1992).

- The annual cost of school crime, including vandalism, runs from about $50 million to $600 million. The best estimate of the yearly replacement and repair costs is about $200 million.
  (National School Safety Center, 1990).

- For 1990, the average cost of justice per U.S. resident was $299.00.
  (Bureau of Justice Statistics "National Update," 1992).

- Direct costs of alcohol-related crashes are estimated to be $46 billion yearly. An additional $102 billion is lost in quality of life due to these crashes.
  (Mothers Against Drunk Driving, 1992).

- The Federal drug control budget exceeded $10.8 billion in 1991. This cost averages to $42.78 per capita.
  (Bureau of Justice Statistics, 1992b).

Fear of Crime

- Of all violent crime victims in 1992, almost 400,000 chose not to report their victimizations due to fear of reprisal.
  (Bastian and DeBarry, 1994).

- A majority of those interviewed in a 1991 national survey reported that they are at least a little fearful of being attacked or robbed when traveling on vacation, out alone at night in their own neighborhoods, or even at home in their own house or apartment.
  (National Victim Center, 1991a).

- Sixty percent of all Americans limit the places they will go by themselves, but women are far more likely than men to do so (73% vs. 45%). Almost a third of all Americans limit the places they go shopping. Twenty-two percent of those surveyed limit where they will work due to fear of crime.
  (National Victim Center, 1991a).

- Due to the fear of crime, one in four Americans has installed home security systems. Nearly one out of five has purchased a weapon for self protection.
  (National Victim Center, 1991a).

Citizens' Attitudes Toward Violence and Victimization

- According to a recent national survey, 99% of all Americans favor AIDS testing of those convicted of rape.
  (National Victim Center, 1991a).

- Most Americans say that sentences handed down to criminals by courts in their communities are too lenient. Four out of five think it is very important that juries be told how much time a criminal will actually have to serve when the criminal is given a particular sentence.
  (National Victim Center, 1991a).

- As long as the defendants' rights were protected, 80% of the public supports an expedited appeals process for death penalty cases to reduce the time that such cases remain pending.
  (National Victim Center, 1991a).

- Three-quarters of the public favor laws which prevent convicted criminals from profiting from their crimes through the sale of books, movies or interviews about their crimes. Eighty-six percent favor laws that require profits made by criminals from books, movies or interviews about their crimes be given to their victims or state victims' compensation funds.
  (National Victim Center, 1991a).

- Eighty-one percent of the public think that it is very important that the judicial system provides victims and their families with the right to be paid by the convicted criminal for stolen or damaged property or for injuries received in the crime. Moreover, 94% of Americans favor requiring convicted criminals to pay a substantial share of the cost of their imprisonment.
  (National Victim Center, 1991a).

- Sixty-two percent of Americans say that they probably or definitely would pay higher taxes to improve the criminal justice system. Seventy percent say they would probably or definitely pay higher taxes to improve services to crime victims.
  (National Victim Center, 1991a).

- Nine of out ten Americans would probably or definitely support an amendment to their state's constitution which would increase victims' rights protection.
  (National Victim Center, 1991a).

Domestic Violence

- It is estimated that six million women are assaulted by a male partner each year and of these, 1.8 million are severely assaulted. However, the rate for assaults by female partners is 124 per 1,000 couples, compared with 122 per 1,000 for assaults by male partners *as reported by wives.*
  (Straus, 1993).

- Every 15 seconds in the United States, a woman is beaten, usually by her male partner.
  (Geffner and Rosenbaum, 1990).

- Every year, domestic violence causes approximately 100,000 days of hospitalization, 28,700 emergency department visits and 39,900 physician visits. This violence costs the nation between $5 and $10 billion per year.
  (Meyer, 1992).

- In 1992, twenty-nine percent of all female murder victims were slain by their husbands or boyfriends.
  (Federal Bureau of Investigation, 1993).

- In domestic violence cases, judges routinely grant requests to suppress address information from being released to the other party, only one-third of the time. Attorneys only request this suppression one-fourth of the time.
  (Girdner, 1994).

Domestic Violence (continued)

- Approximately 1,155,600 adult American women have been victims of one or more forcible rapes by their husbands.
  (Crime Victims Research and Treatment Center, 1992).

- More than 50% of all women will experience some form of violence from their spouses during marriage. More than one-third are battered repeatedly every year.
  (National Coalition Against Domestic Violence, 1993).

- Between 15% to 25% of pregnant women are battered.
  (National Coalition Against Domestic Violence, 1993).

- In homes where spousal abuse occurs, children are abused at a rate 1,500% higher than the national average.
  (National Coalition Against Domestic Violence, 1993).

- Fifty percent of all homeless women and children in this country are fleeing domestic violence.
  (Sheehan, 1993).

- A recent study has theorized that partially due to alcohol consumption and stress, American Indian families experience nearly 36% more assaultive behaviors than do white families.
  (Bachman, 1992a).

- According to a recent national survey, 14% of the women responding admitted to having been violently abused by their husband or boyfriend.
  (Family Violence Prevention Fund, 1993).

- Analysis of murder victims' relationships with their perpetrators shows that a spouse, romantic partner, or lover murdered more than three in ten of all female victims, and one in ten of all male victims.
  (Dawson and Boland, 1993).

- It is estimated there are approximately 500,000 gay male victims of domestic violence annually.
  (Island and Letellier, 1991).

- It appears that violence in lesbian relationships occurs at about the same frequency as violence in heterosexual relationships.
  (Renzetti, 1992).

- Of the 1,290 cases handled by the New York City Gay & Lesbian Anti-Violence Project in 1991, 31% were domestic violence cases.
  (Anti-Violence Project, 1992).

Missing and Exploited Children

- It has been estimated that there were more than 350,000 family abductions of children in 1988.
  (Finkelhor et al., 1990).

- In most cases, parents who are searching for their child, abducted by the other parent, are white, female, have reported a history of domestic violence and are the custodial parent.
  (Greif and Hegar, 1993).

- Although the law requires it, only 5.5% of family court judges asked, said that they always request the transcripts of prior custody proceedings.
  (Girdner, 1994).

Sexual Assault

- The Dept. of Justice estimates there were nearly one-half million sexual assaults in 1993; 160,000 of these were completed, forcible rapes.
  (Bastian, 1994).

- Every minute in the United States, there are 1.3 forcible rapes of adult women; 78 women are forcibly raped each hour. Every day 1,871 women are forcibly raped, equating to 56,916 forcible rapes each month.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

Sexual Assault (continued)

- Thirteen percent of adult American women have been victims of at least one forcible rape in their lifetimes.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

- Twenty-two percent of women polled say they have been forced to do sexual things against their will, usually by an intimate. However, only 3% of men admit to ever forcing themselves on women.
  (Laumann et al., 1994).

- One out of every eight adult women has been the victim of forcible rape. This totals 12.1 million American women.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

- More than six out of ten of all rape cases (61%) occurred before victims reached the age of 18.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

- More than one in ten rape victims currently suffer from RR-PTSD.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

- Only 22% of rape victims were assaulted by someone they had never seen before or did not know well. Nine percent of victims were raped by husbands or ex-husbands; eleven percent by their fathers or stepfathers; ten percent by boyfriends or ex-boyfriends; sixteen percent by other relatives; and twenty-nine percent by other non-relatives, such as friends and neighbors.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

- Of the cases of forcible rape reported in 1992, only 52% led to the arrest of the alleged perpetrator.
  (Federal Bureau of Investigation, 1993).

- There were approximately 20,000 sexual assaults of males ages 12 and over in the United States in 1991.
  (Bureau of Justice Statistics, 1992a).

- In 1985, the U.S. Department of Justice, Bureau of Justice Statistics reported there were 123,000 male rapes over a ten year period.
  (Bureau of Justice Statistics Bulletin, 1985).

Child Abuse and Neglect

- The rate of children reported for child abuse or neglect increased 50% from 1985 to 1993, from 30 per 1,000 children to 45 per 1,000. In 1993, an estimated 2,989,000 children were reported to child protective services agencies as alleged victims.
  (McCurdy and Daro, 1994).

- Of reported cases of child abuse and neglect, 47% involved neglect, 30% physical abuse, 11% sexual abuse, 2% emotional maltreatment and 9% involved other categories.
  (McCurdy and Daro, 1994).

- There was also a fifty percent increase in the rate of child maltreatment fatalities between 1985 and 1993: 1.3 to 1.69 per 100,000 children. In 1993, an estimated 1,299 children died from abuse or neglect, which is nearly 4 children per day.
  (McCurdy and Daro, 1994).

- There was a 50% increase in reports of child abuse nationally, from 1985 to 1992.
  (National Committee for Prevention of Child Abuse, 1993).

- Although the actual rate is unknown, one study indicates the rate of child neglect is 14.6 per 1000 children.
  (Sedlak, 1990).

- Most child sexual abuse offenders are not strangers, but persons whom the abused child knows and trusts.
  (PACER Center, 1990).

- Twenty-nine percent of all forcible rapes in America occurred when the victim was less than 11-years-old.
  (National Victim Center and Crime Victims Research and Treatment Center, 1992).

- Compared to Canada, France, Germany, Japan, and the United Kingdom, the United States has the highest infant mortality rate, teenage birth rate, percentage of violent deaths for those ages 15 to 24, and rate of children living in poverty.
  (Center for the Study of Social Policy, 1993).

Crime Against the Elderly

- The amount of alcohol consumed by abusive adult offspring caregivers of the elderly is significantly higher than for nonabusive caregivers. Nearly two-thirds of abusers drank daily and when drinking, consumed 3 or more drinks.
(Anetzberger, Korbin and Austin, 1994).

- Persons ages 65 or older are the least likely of all age groups in the nation to experience either lethal or non-lethal forms of criminal victimization. However, the elderly were more likely to suffer the more harmful consequences of a victimization such as sustaining injury or requiring medical care.
(Bachman, 1992b).

- Elderly robbery victims are more likely than younger victims to face multiple offenders and also more likely to face offenders armed with guns.
(Bachman, 1992b).

- Crime victimization rates among the elderly have generally been declining during the 1980s. Both personal and household 1990 victimization rates for those ages 65 or older were significantly lower than earlier highs.
(Bachman, 1992b).

- Elderly violent crime victims are almost twice as likely as younger victims to be victimized at or near their home.
(Bachman, 1992b).

- Elderly blacks are more likely to be the victims of crimes of violence and household crimes than elderly whites.
(Bachman, 1992b).

- Of the victims of domestic elder abuse and neglect, approximately one-half are neglected and one-fifth are physically abused. Adult children are the most frequent abusers in the domestic environment.
(Tatara, 1993).

Driving Under the Influence

- Since the minimum age to purchase alcohol has been raised to 21, per capita arrest rates for driving under the influence (DUI) for persons ages 18 to 20, which includes alcohol and other intoxicants, have decreased by 21%.
(Cohen, 1992).

- Over half of the persons in local jails for the offense of driving while intoxicated (DWI) had prior sentences for DWI offenses, while approximately one in six had served at least three prior sentences for drunk driving.
(Cohen, 1992).

- Ninety-six percent of jailed DWI offenders were male; their median age was 32; almost 70% were divorced, separated or had never been married; and 67.7% were white, non-hispanics.
(Cohen, 1992).

- Jailed DWI offenders were more likely than other offenders to have had a prior conviction.
(Cohen, 1992).

- In 1993, an estimated 17,461 persons were killed and 1.2 million injured in the United States in alcohol-related traffic crashes.
(Mothers Against Drunk Driving, 1994).

- Males involved in fatal crashes were nearly twice as likely to have been intoxicated (26.9%) than were females (13.6%).
(Mothers Against Drunk Driving, 1992).

- In the past decade, four times as many Americans died in drunk driving crashes as were killed in the Vietnam War.
(Mothers Against Drunk Driving, 1992).

- Since MADD's inception in 1980, the number of alcohol-related traffic fatalities has decreased by nearly 29% - saving more than 48,000 lives.
(Mothers Against Drunk Driving, 1992).

Homicide

- There were 23,760 murders in the United States in 1992, which equates to one every 22 minutes. *(Federal Bureau of Investigation, 1993).*

- About eight in ten murder victims were killed by relatives or acquaintances in murder cases disposed in the nation's 75 most populous counties during 1988. *(Dawson and Boland, 1993).*

- The use of handguns was the most frequent method of murder, having been used against 55% of black victims, 44% of white victims, 54% of male victims, and 36% of female victims. *(Dawson and Boland, 1993).*

- The murder rate for blacks is about six times that for whites. In 1989, 50 of every 100 murder victims were black, 49 were white and the remainder were persons of other races. *(Bureau of Justice Statistics, 1991).*

- Homicide data were reported on 25,180 offenders in 1992. Of these offenders for whom sex, age and race were reported, 90% were male, 50% were age 15 - 24 and 55% were black. *(Bureau of Justice Statistics, 1994a).*

Hate Crimes

- More than 7,600 hate crimes were reported to the FBI in 1992. Sixty-two percent were racially motivated, 18% religious, 12% sexual orientation, and the remaining 8% were motivated by ethnicity/national origin. *(Federal Bureau of Investigation, 1994b).*

- In New York City, the number of anti-gay and lesbian incidents involving injury requiring medical attention increased 41% in 1992 over 1991. The majority of the incidents involving injury required medical attention. *(Anti-Violence Project, 1993).*

- The U.S. Commission on Civil Rights reported that during the 1980s, 62% of the victims of racially-motivated violence were black and 14.9% were Asian. *(United States Commission on Civil Rights, 1992).*

- Anti-gay and lesbian episodes decreased 14% from 1992 to 1993. *(National Gay and Lesbian Task Force Policy Institute, 1994).*

- Klanwatch, a project of the Southern Poverty Law Center, documented a record 31 bias-motivated murders in 1992. *("Deadly Hate Violence At Record Levels," 1993).*

- Ku Klux Klan members number approximately 4,000. *(Anti-Defamation League, 1991).*

- Approximately one-half of perpetrators against homosexuals are ages 21 or younger. *(Comstock, 1991).*

- In a recent university study, 61% of the gay and lesbian respondents feared for their safety because their orientation was used as a reason for violence. *(Herek and Berrill, 1992).*

- Seventy-seven percent of male first-year college students have been brought up to disapprove of homosexuality. *(Comstock, 1991.)*

Crimes Involving Substance Abuse

- Nearly seventy-five million Americans (36% of the population) reported use of an illicit drug at least once in their lifetime, 11% in the past year and 6% in the past month. *(Timrots and Snyder, 1994).*

- A national study of college women found that alcohol use is one of the strongest predictors of a college woman's rape. *(Department of Health and Human Services, 1992a).*

- Seventy percent of youth suicide attempters were frequent drug and/or alcohol users. *(Department of Health and Human Services, 1992a).*

Crimes Involving Substance Abuse (continued)

- A survey of juvenile offenders in long-term facilities showed that 32.4% of all violent offenses were committed under the influence of alcohol.
  (Department of Health and Human Services, 1992b).

- Drug and gang-related murders totalled 2,486 in 1992.
  (Federal Bureau of Investigation, 1993).

- Data indicate that 77.7% of jail inmates, 79.6% of state prisoners, and 82.7% of youths in long-term public juvenile facilities have used drugs in their lifetimes.
  (Bureau of Justice Statistics, 1993).

Youth and Violence

- Nearly fifteen-hundred children were killed by firearms in 1992.
  (Federal Bureau of Investigation, 1993).

- Black youths between the ages of 15 and 19 are approximately 50% more likely to be victims of murder than white youths.
  (Federal Bureau of Investigation, 1992).

- The FBI states that in 1991, of the total 24,578 murder offenders, 4,099 were between the ages of 15 and 19.
  (Federal Bureau of Investigation, 1992).

- Of those arrested for violent crimes in 1992, 18% or 129,900 were under the age of eighteen.
  (Jones and Krisberg, 1994).

- Of the nearly 200,000 sixth to twelfth grade students asked during the 1993-1994 school year, 7.4% brought a gun to school, 13.8% took part in gang activities, 7.5% thought of suicide "often" or "a lot," 35% threatened to harm another student or teacher, 27% got in trouble with the police, and 35% feared being harmed by another student at school.
  (PRIDE, 1994).

- A 1991 survey by the U.S. Department of Justice, Bureau of Justice Statistics found that more than 400,000 students between the ages of 12 and 19 had been the victims of violent crime. The same study reported that younger children are more likely to report crimes than older teens.
  (Bastian and Taylor, 1991).

- Sexual misconduct is the principle reason reported for the revocation of teaching licenses.
  (Whiteby, 1992).

- The leading cause of death in both black and white teenage boys in America is gunshot wounds. Suicide is the third leading cause of death among children and adolescents in the United States, a rate that has doubled in the last 30 years, the increase almost solely due to firearms.
  (Koop and Lundberg, 1992).

Institutional and Community Corrections

- As of June 30, 1994, the total prison population of the United States (including Federal and state institutions) was 1,012,851. This is the highest level of incarceration ever for the U.S.
  (Bureau of Justice Statistics, 1994b).

- In 1989, the median time served for murder was 71 months; for non-negligent manslaughter, 49 months; for rape, 41 months; for robbery, 28 months; and for assault, 13 months.
  (Perkins, 1992).

- A recent survey of the 245,562 violent offenders in state prisons showed they had victimized an estimated 409,000 persons: about 79,300 victims killed, 51,100 victims sexually assaulted, 201,200 victims robbed, 56,400 assaulted, and 20,400 victims who suffered other types of violence.
  (Innes and Greenfeld, 1990).

- In 1989, U.S. juvenile courts handled an estimated 1,189,200 delinquency cases. Person offenses such as homicide, rape, robbery, and assault were involved in 206,300 cases, or 17 percent of delinquency cases. Property offenses such as burglary, larceny-theft, arson, and vandalism were involved in 689,100 cases, or 58 percent. Drug offenses were involved in 77,300 cases, or 7 percent of the juvenile court caseload. Public order offenses such as disorderly conduct, obstructions of justice, and weapons

Institutional and Community Corrections (continued)

offenses were involved in 216,500 cases, or 18 percent.
(Butts and Sickmund, 1992).

- The number of delinquency cases increased seven percent from 1985 to 1989. Changes in case volume varied by offense. While the number of person offenses cases increased 18 percent, aggravated assault cases increased 33 percent, and homicide cases increased 53 percent. The number of forcible rape and robbery cases, however, decreased eight percent.
(Butts and Sickmund, 1992).

- Victim and witness notification of changes in offenders' status is provided by 31 adult corrections agencies, seven juvenile corrections agencies, and 29 parole agencies.
(National Victim Center, 1991b).

- Forty-three adult and 36 juvenile corrections agencies, along with 38 parole agencies, have been authorized by courts in their states to order restitution for offenders sentenced to prison.
(National Victim Center, 1991b).

- About 38% of state prisoners had at least one prior conviction in the juvenile justice system. In addition to the conviction for which they were in prison in 1991, about 71% of state prison inmates had prior adult convictions.
(Greenfeld, 1992).

- In 1991, 66% of state prison inmates had at least one prior sentence to probation; 59% at least one prior sentence to incarceration.
(Greenfeld, 1992).

- The number of female inmates grew almost twice as fast as did the male population of inmates between 1983 and 1989. The number of women increased by 138 percent, compared to a 73 percent growth in the male jail population.
(Snell, 1992).

- About 44% of the female inmates reported that they had been either physically or sexually abused at some time in their lives before their current imprisonment.
(Snell, 1992).

State Legislative Summary

- Twenty-two states provide for notice to victims of the status of a criminal case. However, only nine states afford victims a right to notice of arrest of the offender. Twenty-nine states provide notice to victims of the escape of a convicted offender. *

- Twenty-two states require a court to consider victim input in making sentencing determinations. Thirty-seven states plus the District of Columbia permit victim impact information to be presented at the sentencing hearing. Additional states allow victim input in the presentence report. *

- Thirty-two states allow for victim input at parole hearings. This is a mandatory right for victims in 30 states. *

- Twenty-two states may enforce restitution orders in the same manner as civil judgments. *

- As of November 1994, twenty states have adopted constitutional amendments providing rights to crime victims.**

- As of October 31, 1994, five states have laws which provide varying degrees of community notice concerning the release of sex offenders.**

- Twenty-one states mandate the arrest of a domestic violence offender who violates a protective order.**

- Fourteen states have bills of rights for victims of juvenile offenders.**

- Seven states have laws prohibiting or restricting the polygraphing of sexual assault victims.**

- Eleven states have laws requiring certain batterers to obtain counseling.**

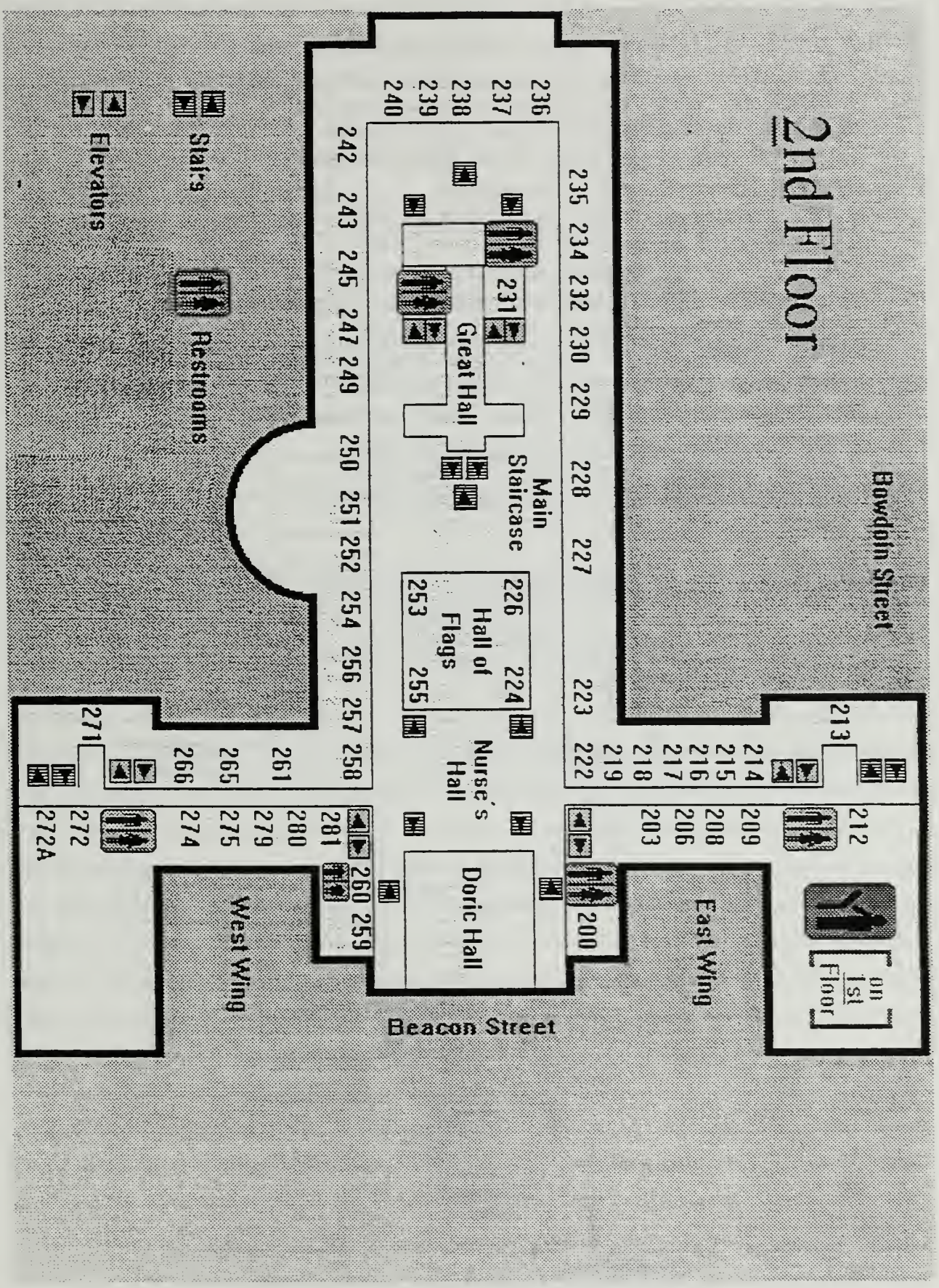
- As of the end of 1993, every state has a law that prohibits stalking. In most states, stalking is a misdemeanor for a first offense.**

All data are derived from the National Victim Center's Legislative Database.

** These data reflect states' legislative status as of year-end 1991.*

*** These data reflect states' legislative status as of the end of their 1992 main legislative session.*

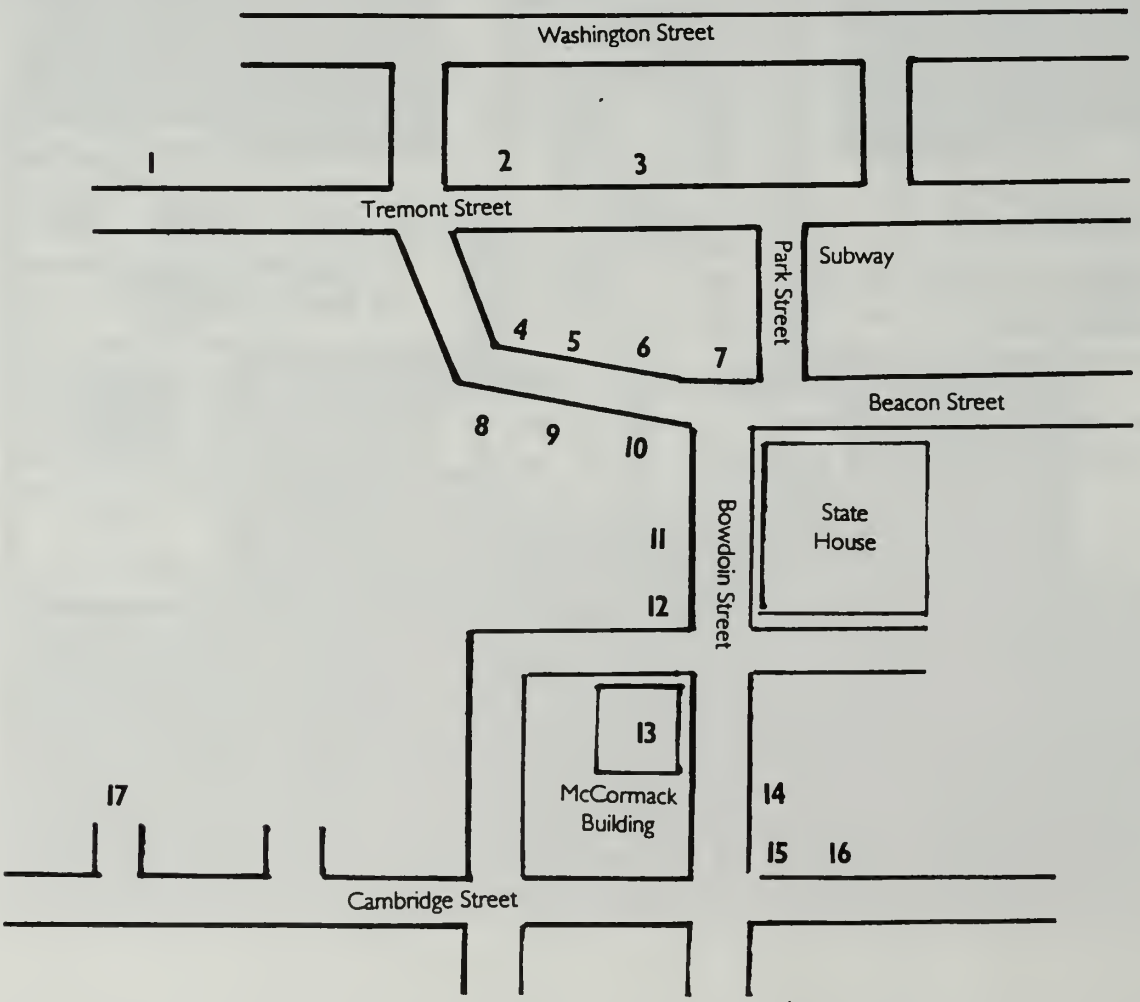
Massachusetts State House: Main Floor



Area Restaurants

1. REBECCA'S CAFE: Tremont Street - Salads, Soups and Sandwiches
2. LAST HURRAH/PARKER HOUSE: Tremont Street - American Cuisine
3. EMPEROR OF CHINA: Tremont Street - Chinese Cuisine
4. PUBLIK HOUSE: Beacon Street - Burgers and Sandwiches
5. HIGH SPOT DELI: Beacon Street - Pizza, Grinders and Salads
6. S & M DELI: Beacon Street - Deli Sandwiches
7. AU BON PAIN: Beacon Street - Salads, Soups and Sandwiches
8. THE BLACK GOOSE: Beacon Street - Pasta and Salads
9. GRILL ON THE HILL: Beacon Street - Salads and Sandwiches
10. NORTH END PIZZERIA CAFE: Beacon Street - Pizza, Calzones and Salads
11. FILL-A-BUSTER: Bowdoin Street - Salads and Grinders
12. CAPITAL COFFEE HOUSE: Bowdoin Street - Burgers, Sandwiches and Salads
13. CAFETERIA AT ONE ASHBURTON: McCormack Building - Sandwiches and Salads
14. THE RED HAT: Bowdoin Street - Salads, Burgers, and Sandwiches
15. ORIENT EXPRESS: Cambridge Street - Japanese Cuisine
16. SUBWAY: Cambridge Street - Hot and Cold Sandwiches
17. PLAZA DELI: Center Plaza - Salads, Soups and Sandwiches

NOTE: Restaurant locations are indicated by corresponding numbers.



Conference Notes

Conference Notes